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Seward

fragment in defense  
of Mr. Freeman. Auburn

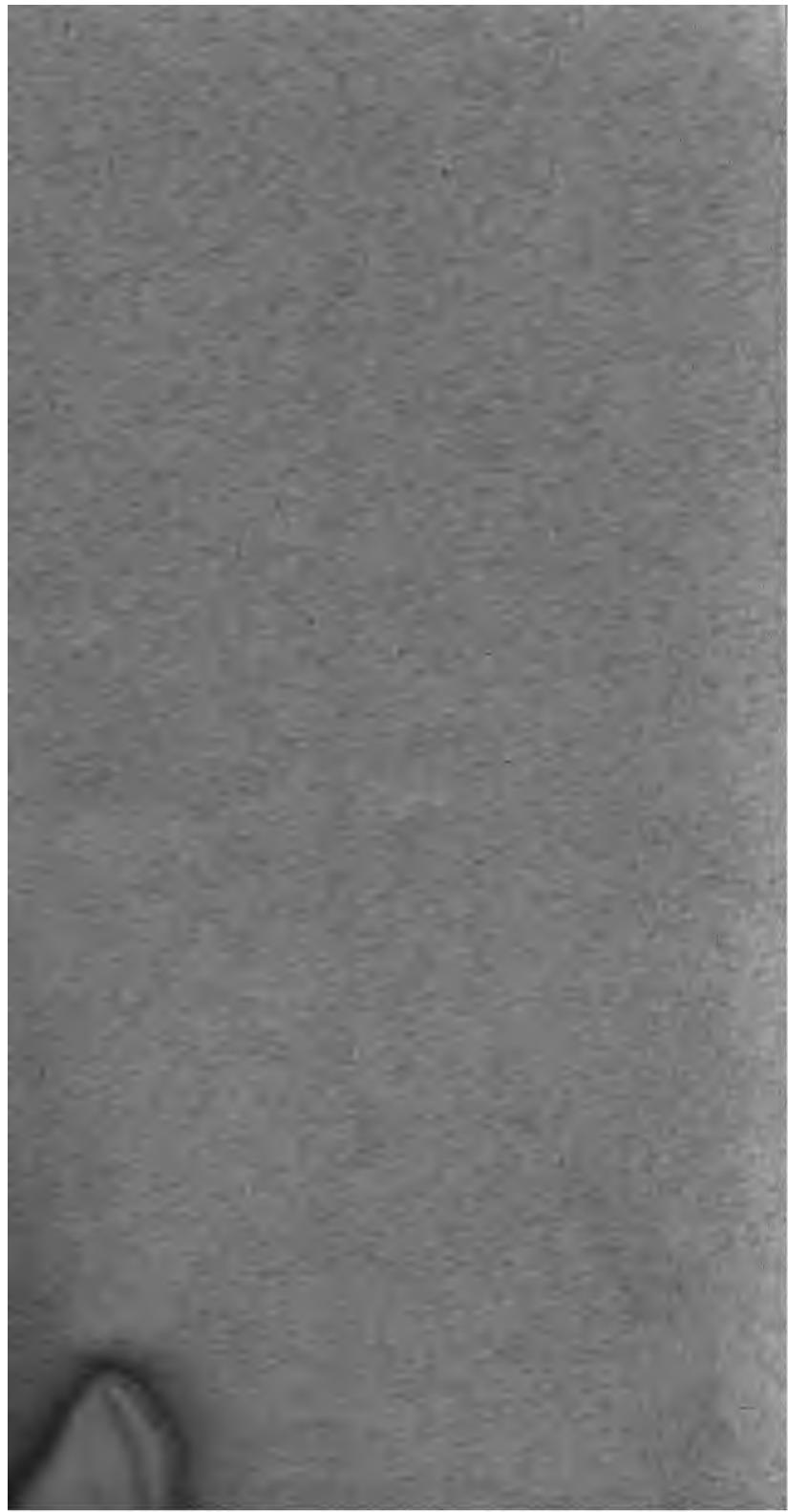
July 21<sup>st</sup> 1846

University of Michigan

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ARGUMENT  
OF  
WILLIAM H. SEWARD,  
=

IN DEFENCE OF

**WILLIAM FREEMAN,**  
ON HIS TRIAL FOR MURDER,

AT AUBURN,

JULY 21ST AND 22D, 1846.

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AUBURN, N.Y.  
H. OLIPHANT, PRINTER.  
1846.



## ARGUMENT.

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PLEASE THE COURT.

*Gentlemen of the Jury.*

**DU SHALT NOT KILL,**" and "**WHOSO SHEDDAN'S BLOOD BY MAN SHALL HIS BLOOD BE**" are laws found in the code of that People though dispersed and distracted, trace story to the creation; a history which that Murder was the first of Human

irst of these precepts constitutes a tenth the Jurisprudence which God saw fit to a, at an early period, for the government mankind, throughout all generations. er, of less universal obligation, is still in our system, although other States, as ant and refined, as secure and peaceful, bstituted for it the more benignant pria Good shall be returned for Evil. I mplicit submission to this law, and aci the justice of its penalty, and the Courts and Juries to give it effect.

is case, if the prisoner be guilty of Mur o not ask remission of punishment. If uilty, never was Murderer *more* guilty. murdered not only John G. Van Nest, hands are reeking with the blood of oth numerous, and even more pitiable vic The slaying of Van Nest, if a crime at s the cowardly crime of assassination. Van Nest was a just, upright, virtuous middle age, of grave and modest de distinguished by especial marks of the and esteem of his fellow citizens. On leaned a confiding wife, and they sup on the one side, children to whom they ren being, and, on the other, aged and ole parents, from whom they had derived e. The assassination of such a man atrocious crime, but the Murderer, with an savage refinement, immolated on the lar, in the same hour, a venerable and s matron of more than three score years, daughter, the wife of Van Nest, mother born infant. Nor was this all. Provi which for its own mysterious purposes ed these dreadful crimes, in mercy suf he same arm to be raised against the g orphan child of the butchered parents eived it into Heaven. A whole family, ntle, and pure, were thus, in their own in the night time, without any provoca without one moment's warning, sent by iderer to join the Assembly of the Just; 'en the laboring man sojourning within

their gates, received the fatal blade into his breast, and survives through the mercy, not of the murderer, but of God.

For William Freeman as a murderer, I have no commission to speak. If he had silver and gold accumulated with the frugality of Cossus, and should pour it all at my feet, I would not stand an hour between him and the Avenger. But for the innocent it is my right, my duty to speak. If this sea of blood was innocently shed, then it is my duty to stand beside him until his steps lose their hold upon the scaffold.

"Thou shalt not kill," is a commandment addressed not to him alone, but to me, to you, to the Court, and to the whole community. There is no exception to that commandment, at least in civil life, save that of capital punishment for crimes, in the due and just administration of the law. There is not only a question then whether the prisoner has shed the blood of his fellow man, but the question, whether we shall unlawfully shed his. I should be guilty of murder if, in my present relation, I saw the executioner waiting for an insane man, and failed to say, or failed to do in his behalf, all that my ability allowed. I think it has been proved of the Prisoner at the bar, that, during all this long and tedious trial, he has had no sleepless nights, and that even in the day-time, when he retires from these halls to his lonely cell, he sinks to rest like a wearied child, on the stone floor, and quietly slumbers till roused by the constable with his staff to appear again before the Jury. His Counsel enjoy no such repose. Their thoughts by day and their dreams by night are filled with oppressive apprehensions that through their inactivity or neglect he may be condemned.

I am arraigned before you for undue manifestations of zeal and excitement. My answer to all such charges shall be brief. When this cause shall have been committed to you, I shall be happy indeed if it shall appear that my only error has been, that I have felt too much, thought too intensely, or acted too faithfully.

If my error would thus be criminal, how great would yours be if you should render an unjust verdict! Only four months have elapsed since an outraged People, distrustful of judicial redress, doomed the prisoner to immediate death. Some of you have confessed that you approved that lawless sentence. All men now rejoice that the prisoner was saved for this solemn trial. But this trial would be as criminal as that precipitate sentence, if through any wilful bias or prej dice of yours, it should prove but a mockery of law.

uce. If any prejudice of witnesses, or the imagination of Counsel, or any ill-timed jest shall at any time have diverted your attention, or if any prejudgment which you may have brought into the Jury Box, or any cowardly fear of popular opinion shall have operated to cause you to deny to the prisoner that dispassionate consideration of his case which the laws of God and man exact of you, and if, owing to such an error, this wretched man falls from among the living, what will be your crime? You will have violated the commandment, "Thou shalt not kill." It is not the form or letter of the trial by Jury that authorizes you to send your fellow man to his dread account, but it is the spirit that sanctifies that glorious institution; and if, through pride, passion, timidity, weakness, or any cause, you deny the prisoner one iota of all the defence to which he is entitled by the law of the land, you yourselves, whatever his guilt may be, will have broken the commandment, "Thou shalt do no murder."

There is not a corrupt or prejudiced witness, there is not a thoughtless, heedless witness, who has testified what was not true in spirit, or what was not wholly true, or who has suppressed any truth, who has not offended against the same injunction.

Nor is the Court itself above that commandment. If these Judges have in aught been influenced by the excitement which has brought this vast assemblage here, and under such influence or under any other influence, have committed voluntary error and have denied to the prisoner or shall hereafter deny to him the benefit of any fact or any principle of law, then this Court will have to answer at that bar at which we all shall meet again, for the deep transgression. When we appear there, none of us can plead that we were insane and knew not what we did; and by just so much as our ability and knowledge exceed those of this wretch whom the world regards as a fiend in human shape, will our guilt, if we be guilty, exceed his.

I plead not for a murderer. I have no inducement, no motive to do so. I have addressed my fellow citizens in many various relations, when rewards of wealth and fame awaited me. I have been cheered on other occasions by manifestations of popular approbation and sympathy; and where there was no such encouragement, I had at least the gratitude of him whose cause I defended. But I speak now in the hearing of a People who have prejudged the prisoner and condemned me for pleading in his behalf. He is a convict, a pauper, a negro, without intellect, sense or emotion. My child, with an affectionate smile, disarms my care-worn face of its frown whenever I cross my threshold. The beggar in the street obliges me to give, because he says "God bless you," as I pass. My dog caresses me with fondness if I will but smile on him. My horse recognizes me when I fill his manger; and even the toad that I spare in my walk seems to look up to me with gratitude. But what reward, what gratitude, what sympathy and affection can I expect here? There the prisoner sits. Look at him. Look at the assemblage around you. Listen to their ill suppressed censures and their excited fears, and tell me where among my neighbors or my fellow men, where even in his heart, I can ex-

pect to find the sentiment, the thought, not to say of reward or of acknowledgement, but even of recognition. I sat here two weeks during the preliminary trial. I stood here between the prisoner and the Jury nine hours and pleaded for the wretch that he was insane and did not even know he was on trial: and when all was done, the Jury thought, at least eleven of them thought, that I had been deceiving them or was self-deceived. They read signs of intelligence in his idiotic smile, and of cunning and malice in his stolid insensibility. They rendered a verdict that he was sane enough to be tried, a contemptible compromise verdict in a capital case; and then they looked on, with what emotions God and they only know, upon his arraignment. The District Attorney, speaking in his adder ear, bade him rise, and reading to him one indictment, asked him whether he wanted a trial, and the poor fool answered, No. Have you Counsel? No. And they went through the same mockery, the prisoner giving the same answers, until a third indictment was thundered in his ears, and he stood before the Court, silent, motionless and bewildered. Gentlemen, you may think of this evidence what you please, bring in what verdict you can, but I asseverate before Heaven and you that to the best of my knowledge and belief the prisoner at the bar does not at this moment know why it is that my shadow falls on you instead of his own.

I speak with all sincerity and earnestness, not because I expect my opinion to have weight, but I would disarm the injurious impression that I am speaking, merely as a lawyer speaks for his client. I am not the prisoner's lawyer. I am indeed a volunteer in his behalf. Society and mankind have the deepest interests at stake. I am the lawyer for society, for mankind, shocked beyond the power of expression, at the scene I have witnessed here of trying a maniac as a malefactor. In this, almost the first of such causes I have ever tried, the last I hope that I shall ever see, I wish that I could perform my duty with more effect. If I suffered myself to look at the volumes of testimony through which I have to pass, to remember my entire want of preparation, the pressure of time and my wasted strength and energies, I should despair of acquitting myself as you and all good men will hereafter desire that I should have performed so sacred a duty. But in the cause of humanity we are encouraged to hope for Divine assistance where human powers are weak. As you all know, I provided for my way through these trials, neither gold nor silver in my purse, nor scrip; and when I could not think beforehand what I should say, I remembered that it was said to those who had a beneficent commission, that they should take no thought what they should say when brought before the magistrate, for in that same hour it should be given them what they should say, and it should not be they who should speak, but the spirit of their Father speaking in them.

You have promised, Gentlemen, to be impartial. You will find it more difficult than you have supposed. Our minds are liable to be swayed by temporary influences, and above all by the influences of masses around us. At every stage of this trial your attention has been diverted, as it will be hereafter, from the only question which it involves, by the eloquence of

unsel for the People reminding you of the  
ter of that helpless and innocent family,  
the danger to which society is exposed by  
the rigor of the laws. Indignation at  
crime and apprehensions of its recur-  
are elements on which public justice relies  
execution of the law. You must indulge  
indignation. You cannot dismiss such ap-  
prehensions. You will in common with your  
citizens deplore the destruction of so ma-  
cious lives, and sympathize with mourn-  
lations and friends. Such sentiments can-  
be censured when operating upon the com-  
unity at large, but they are to be deplored  
when they are manifested in the Jury

On again a portion of this issue has been  
imperfectly tried, unjustly tried, before  
y of twelve men, you are told, have al-  
rendered their verdict that the prisoner is  
ane. The deference which right minded  
eld to the opinions of others, the timidity  
weak men feel in dissenting from others,  
empt you to surrender your own indepen-  
.

I warn you that that verdict is a reed  
will pierce you through and through. That  
ere selected without peremptory challenge,  
of the Jurors entered the pannel with settled  
ns that the prisoner was not only guilty of  
micide, but sane, and all might have entered  
such opinions for all that the prisoner could  
t was a verdict founded on such evidence  
ld be hastily collected in a community  
it required moral courage to testimony for  
eused. Testimony was excluded upon friv-  
and unjust pretences. The cause was sub-  
l to the Jury on the 4th of July, and under  
nstances calculated to convey a malicious  
injust spirit into the Jury Box. It was a  
e celebration. The dawn of the Day of  
evidence was not greeted with cannon or

No lengthened procession was seen in  
reets, nor were the voices of orators heard  
r public halls. An intense excitement  
ht a vast multitude here, complaining of  
ay and the expense of what was deemed  
necessary trial, and demanding the sacri-  
a victim, who had been spared too long al-

For hours that assemblage was roused  
excited by denunciations of the prisoner  
idicule of his deafness, his ignorance and  
nbecility. Before the Jury reired, the  
were informed that they were ready to ren-  
e verdict required. One Juror, however,  
ed. The next day was the Sabbath.  
ury were called and the Court remonstrated  
the dissentient and pressed the necess-  
a verdict. That Juror gave way at last,  
ne bell which summoned our citizens to  
h for the evening service, was the signal  
e discharge of the Jury, because they had  
d. Even thus a legal verdict could not be  
ed. The eleven Jurors, doubtless under  
timation from the Court, compromised with  
eighth and a verdict was rendered, not in  
nguage of the law that the prisoner was  
nsane," but that he was "sufficiently in  
mind and memory to distinguish be-  
right and wrong"; a verdict which im-  
that the prisoner was at least *partially in-*  
was diseased in other faculties beside the  
ry, and partially diseased in that, and that  
igh he had mind and memory to distin-

guish between right and wrong in the abstract,  
he had not reason and understanding and will  
to regulate his conduct according to that dis-  
tinction—in short, a verdict by which the Jury  
unworthily evaded the question submitted to  
them and cast upon the Court a responsibility  
which it had no right to assume, but which it  
did nevertheless assume in violation of the law.  
That twelfth Juror was afterwards drawn as a  
Juror in this cause and was challenged by the  
Counsel for the People for partiality to the pris-  
oner, and the challenge was sustained by the  
Court, because, although he had, as the Court  
say, pronounced by his verdict that the prisoner  
was sane, he then declared that he believed the  
prisoner insane, and would die in the Jury Box  
before he would render a verdict that he was  
sane. Last and chief of all objections to that  
verdict now, it has been neither pleaded nor  
proved here, and therefore is not in evidence be-  
fore you. I trust then that you will dismiss to the  
contempt of mankind that Jury and their ver-  
dict, thus equivocating upon law and science,  
health and disease, crime and innocence.

Again. An inferior standard of intelligence  
has been set up here as the standard of the ne-  
gro race, and a false one as the standard of the  
Asiaitic race. This prisoner traces a divided lin-  
eage. On the paternal side his ancestry is lost  
among the tiger-hunters on the Gold Coast  
of Africa, while his mother constitutes a portion  
of the small remnant of the Narragansett tribe.  
Hence it is held that the prisoner's intellect is  
to be compared with the depreciating standard  
of the African and his passions with the violent  
and ferocious character falsely imputed to the  
Aborigines. Indications of manifest derange-  
ment or at least of imbecility approaching to  
Idiocy are therefore set aside on the ground that  
they harmonize with the legitimate but degraded  
characteristics of the races from which he is de-  
scended. You, gentlemen, have or ought to  
have lifted up your souls above the bondage of  
prejudices so narrow and so mean as these.  
The color of the prisoner's skin and the form of  
his features are not impressed upon the spiritual,  
imortal mind which works beneath. In spite  
of human pride he is still your brother and mine,  
in form and color accepted and approved by  
his Father and yours and mine, and bears equally  
with us the proudest inheritance of our race,  
the image of our Maker. Hold him then  
to be a man. Exact of him all the responsibil-  
ities which should be exacted under like  
circumstances if he belonged to the Anglo-Sax-  
on race, and make for him all the allowances  
and deal with him with all the tenderness which  
under like circumstances you would expect for  
yourselves.

The prisoner was obliged, no, his Counsel  
were obliged by law to accept the plea of not  
guilty, which the Court directed to be entered in  
his behalf. That plea denies the homicide.  
If the law had allowed it, we would gladly have  
admitted all the murders of which the prisoner  
was accused, and have admitted them to be as  
unprovoked as they were cruel, and have gone  
directly before you on the only defence upon  
which we have insisted or shall insist or could  
insist, that he is irresponsible because he was  
and is insane.

We labor not only under these difficulties, but  
under the further embarrassment that the plea

of Insanity is universally suspected. It is the last subterfuge of the guilty, and so is too often abused. But however obnoxious this defence is to suspicion, there have been cases where it was true; and when true, it is of all pleas the most perfect and complete defence that can be offered in any human tribunal. Our Savior forgave his Judges because "they knew not what they did." The insane man who has committed a crime knew not what he did. If this being, covered with human blood, be insane, you and I and even the children of our affections are not more guiltless than he.

Is there reason for you to indulge a suspicion of fraud here? Look at this stupid senseless fool, almost as inanimate as the clay moulded in the brick-yard, and say if you dare, that you are afraid of being deceived by him. Look at me. You all know me. Am I a man to engage in a conspiracy to deceive you and defraud justice? Look on us all, for although I began the defence of this cause alone, thanks to the generosity, to the magnanimity of an enlightened profession, I come out strong in the assistance of Counsel never before attached to me in any relation, but strongly grappled to me now, by these new and endearing ties. Is any one of us a man to be suspected? The testimony is closed. Look through it all. Can suspicion or malice find in it any ground to accuse us of a plot to set up a false and fabricated defence? I will give you, Gentlemen, a key to every case where Insanity has been wrongfully, and yet successfully maintained. Gold, influence, popular favor, popular sympathy raise that defence and make it impregnable. But you have never seen a poor, worthless, spiritless, degraded negro like this acquitted wrongfully. I wish this trial may prove that such an one can be acquitted rightfully. The danger lies in this. There is not a wiser man or wiser woman who would not have been dismissed long since from the perils of such a prosecution, if it had only been proved that the offender was so ignorant and so brutalized as not to understand that the defence of Insanity had been interposed.

If he feign, who has trained the idiot to perform this highest and most difficult of all intellectual achievements? Is it I? Shakespeare and Cervantes only, of all mankind, have conceived and perfected a counterfeit of insanity. Is it I? Why is not the imposition exposed to my discomfiture and the prisoner's ruin? When was it done? was it in public, here? was it in secret, in the jail? His adder ears could not hear me there unless I were also overheard by other prisoners, by jailers, constables, the Sheriff and a cloud of witnesses. Who have the keys of the jail? Have I? You have had Sheriff, Jailer, and the whole police upon the stand. Could none of these witnesses reveal our plot? Were there none to watch and report the abuse? When they tell you, Gentlemen, or insinuate, that this man has been taught to feign insanity they discredit themselves, as did the Roman sentinels, who, appointed to guard the sepulchre of our Saviour, said in excuse of the broken seal, that while they slept men came and rolled away the stone.

I advance towards the merits of the cause. The law which it involves will be found in the case of Kleim, tried for murder in 1844, before Judge Edmonds, of the first circuit, in the city

of New York, reported in the Journal of I<sup>lly</sup> for January, 1846, at page 261. I read the report of the Judge's charge.

"He told the Jury that there was no (that Kleim had been guilty of the killing intended to him, and that, under circumstances of atrocity and deliberation which were calculated to excite in their minds strong feelings of indignation against him. But they must be aware how they permitted such feelings to influence their judgment. They must bear in mind the object of punishment was not vengeance or reformation, not to extort from a man a confession for the life which he cannot give, but the terror of the example, to deter others from like offences and that nothing was so likely to destroy the public confidence in the administration of criminal justice, as the infliction of pains upon one whom Heaven has already afflicted with the awful malady of insanity."

These words deserve to be written in gold upon tablets of marble. Their meaning and philosophy are apparent. If you send a lunatic to the gallows, society will be shocked by your inhumanity, and the advocates for the abolition of capital punishment will find most effective argument in the fact that a portion of the country, through ignorance, or partial prejudice have mistaken a Madman for a Criminal.

The report of Judge Edmond's charge concludes; "It was true that the plea of Insanity sometimes adopted as a cloak for crime, was unfortunately equally true, that many persons were unjustly convicted, to whom unquestioned insanity ought to have been a failing protection."

This Judicial answer to the argument of Jurors are to likely to be swayed by the plea of Insanity, is perfect and complete.

Judge Edmonds further charged the Jury that it was by no means an easy matter to discover or define the line of demarcation between sanity and insanity, and it was often "difficult for those most expert in disease to detect or explain its beginning, extent, or duration," "that the classifications of the disease were in a great measure arbitrary, and the Jury were not obliged to bring the case of a prisoner within any one of the classes, because the symptoms of the different kinds were continually mingling with each other."

The application of this rule will render the present case perfectly clear, because it appears from the evidence that the prisoner is laboring under a combination of mania or excitement, with dementia or decay of the mind.

Judge Edmonds furnishes you with a balance to weigh the testimony in the case in words:

"It was important that the Jury should understand how much weight was to be given to the opinions of medical witnesses. The opinions of men who had devoted themselves to the study of insanity as a distinct department of medical science, and studied recent improvements and discoveries, especially when to knowledge they added the experience of personal care of the insane, could never be safely regarded by Courts and Juries; and on the other hand the opinions of Physicians who had devoted their particular attention to the dit-

lot of any more value than the opinions among persons."

charge of Judge Edmonds furnishes a guide your feet, and throws a blazing in your path. He acknowledges in the ace, with distinguished independence for a and a lawyer, that "the law in its slow tuous progress still lags far behind the ce of true knowledge." "An insane per one who at the time of committing it labored under such a defect of rea not to know the nature and quality act he was doing, or if he did know i not know he was doing what was ; and the question is not whether the knew the difference between right and generally, but whether he knew the differ between right and wrong in regard to the ct with which he is charged." "If some illing disease was in truth the acting power him which he could not resist, or if he ot a sufficient use of his reason to control ssions which prompted him, he is not reible. But it must be an absolute dispossesf the free and natural agency of the huind. In the language of Erskine, it is necessary that Reason should be hurled from at, it is enough that Distraction sits down her, holds her trembling in her place and ens her from her property."

ge Edmonds proceeded: "And it must be in mind that the *moral* as well as the *isual* faculties may be so disordered by the eas to deprive the mind of its controlling irecting power.

order then to establish a crime, a man have memory and intelligence to know he act he is about to commit is wrong; to aber and understand that if he commit it, he will be subject to punishment; and a will to enable him to compare and e between the supposed advantage or gration to be obtained by the criminal act, and immunity from punishment which he will by abstaining from it.

on the other hand he have not intellig- enough to have a criminal intent and pur- and if his moral or intellectual powers are so deficient that he has not sufficient will, ience or controlling mental power, or if gh the overwhelming violence of mental e his intellectual power is for the time ob- ed, he is not a responsible moral agent."

learned Judge recommended to the Jury, to a just conclusion, to consider the ex- linary and unaccountable alteration in the er's whole mode of life, the inadequacy be- the slightness of the cause and the magni- of the offence, the recluse and ascetic life he had led, his invincible repugnance to all course with his fellow creatures, his behavior onduct at the time the act was done and quently during his confinement, and the indifference which he alone had manifest- ring the whole progress of a trial upon his life or death depended."

lein was acquitted and sent, according to the State Lunatic Asylum at Utica. The intendant of the Asylum, in a note to this t, states that Kleim is uniformly mild and ant, has not asked a question or spoken turned the name of any one, seems very fically to recollect the murder or the trial,

says he was put in Prison, does not know what for, and was taken to the Court, but had no trial, and that his bodily health is good, but that his mind is nearly gone, quite demented.

You cannot fail, Gentlemen of the Jury, to remark the extraordinary similarity between the case of Kleim as indicated in the charge of Judge Edmonds and that of the prisoner at the bar. If I were sure you would receive such a charge and be guided by it, I might rest here and defy the eloquence of the Attorney General. The proof of Insanity in this case, is of the same nature, and the disease is of the same form as in the case of Kleim. The only difference is that the evidence here is a thousand times more conclusive. But Judge Edmonds does not preside here. Kleim was a *white* man, Freeman is a *nigro*. Kleim set fire to a house, to burn only a poor obscure woman and her child. Here the madman destroyed a whole family, rich, powerful, honored, respected and beloved. Kleim was tried in the city of New York; and the community engaged in their multiplied avocations and heedless of a crime not infrequent there, and occurring in humble life, did not overawe and intimidate the Court, the Jury or the witnesses. Here a panic has paralyzed humanity. No man or woman feels safe until the maniac shall be extirpated from the face of the earth. Kleim had the sympathies of men and women, willing witnesses, advocates sustained and encouraged by popular favor, and an impartial Jury. Freeman is already condemned by the tribunal of public opinion, and has reluctant and timorous witnesses, Counsel laboring under embarrassments plainly to be seen, and a Jury whose impartiality is yet to be proved.

The might that slumbered in this maniac's arm was exhausted in the paroxysm which im- pelled him to his dreadful deeds. Yet an excited community, whose terror has not yet culmi- nated, declare that whether sane or insane he must be executed to give safety to your dwellings and theirs. I must needs then tell you the law which will disarm such cowardly fear. If you acquit the prisoner, he cannot go at large, but must be committed to jail to be tried by another Jury for a second murder. Your dwellings therefore will be safe. If such a Jury find him sane he will then be sent to his fearful ac- count and your dwellings will be safe. If ac- quitted he will be remanded to jail to await a third trial, and your dwellings will be safe. If that Jury convict, he will then be executed and your dwellings will be safe. If they acquit he will still be detained to answer for a fourth mur- der and your dwellings will be safe. Whether the fourth Jury acquit or convict, your dwellings will still be safe, for if they convict he will then be cut off, and if they acquit he must according to the law of the land, be sent to the Lunatic Asylum there to be confined for life. You may not slay him then for the public security, because the public security does not demand the sacrifice. There can be no security of home or hearth obtained by judicial murder. God will abandon him who through cowardly fear be- comes such a murderer. I also stand for the security of the homes and hearths of my fellow citizens and have as deep an interest and as deep a stake as any one of them. There are my home and hearth exposed to every danger that can threaten theirs, but I know that securi-

ty cannot exist for any, if feeble man undertake to annul the decrees of Providence.

The Counsel for the People admit in the abstract that Insanity excuses crime, but they insist on rules for the regulation of Insanity, to which that disease can never conform itself.—Dr. Fosgate testified that the prisoner was insane. He was asked by the Attorney General, "What if the law, nevertheless, hold to be criminal that same state of mind which you pronounce Insanity?" He answered with high intelligence and great moral firmness, "The law cannot alter the constitution of man as it was given him by his Maker."

Insanity such as the Counsel for the People would tolerate, never was and never will exist. They bring its definition from Coke, Blackstone and Hale, and it requires that by reason either of natural infirmity or of disease, the wretched subject shall be unable to count twenty, shall not know his father or mother, and shall have no more reason or thought than a brute beast.

According to the testimony of Dr. Spencer and the claim of the Attorney General, an individual is not insane if you find any traces or glimmerings of the several faculties of the human mind, or of the more important ones. Dr. Spencer has found in the prisoner, memory of his wrongs and sufferings, choice between bread and animal food, hunger to be appeased, thirst to be quenched, love of combat, imperfect knowledge of money, anger and malice. All of Dr. Spencer's questions to the accused show that in looking for insanity he demands an entire obliteration of all conception, attention, imagination, association, memory, understanding and reason and every thing else. There never was an idiot so low, never a diseased man so demented. You might as well expect to find a man born without eyes, ears, nose, mouth, hands and feet, or deprived of them all by disease and yet surviving, as to find such an idiot, or such a lunatic, as the Counsel for the People would hold irresponsible. The reason is that the human mind is not capable, while life remains, of such complete obliteration. What is the human mind? It is immortal, spiritual, immortal; an emanation of the Divine Intelligence, and if the frame in which it dwells had preserved its just and natural proportions and perfect adaptation, it would be a pure and heavenly existence. But that frame is marred and disordered in its best estate. The spirit has communication with the world without, and acquires imperfect knowledge only through the half-opened gates of the senses. If, from original defects or from accidental causes the structure be such as to cramp or restrain the mind, it becomes or appears to be weak, diseased, vicious and wicked. I knew one who was born without sight, without hearing, and without speech, retaining the faculties of feeling and smell. That child was and would have continued to be an idiot, incapable of receiving or communicating thoughts, feelings or affections; but tenderness unexampled, and skill and assiduity unparalleled, have opened avenues to the benighted mind of Laura Bridgman, and developed it into a perfect and complete human spirit, consciously allied to all its kindred and aspiring to Heaven. Such is the mind of every idiot and of every lunatic, if you can only open the gates of its senses; and such is the

human soul when deranged and disordered by disease, imprisoned, confounded, benighted. That disease is insanity.

Doth not the idiot eat? Doth not the idiot drink? Doth not the idiot know his father and his mother? He does all these because he is a man. Doth he not smile and weep? and think you he smiles and weeps for nothing? He smiles and weeps because he is moved by human joys and sorrows, and exercises, however imperfectly, his reason. Hath not the idiot, anger, rage, revenge? Take from him his food, and he will stamp his feet and throw his chains in your face. Think you he doth this for nothing? He does it all because he is a man, and because, however imperfectly, he exercises his reason. The lunatic does all this, and, if not quite demented, all things else that man in the highest pride of intellect does or can do. He only does them in a different way. You may pass laws for his government. Will he conform? Can he conform? What cares he for your laws? He will not even plead—he cannot plead, his disease, in excuse. You must interpose the plea for him, and if you allow it, he, when redeemed from his mental bondage, will plead for you, when he returns to your Judge and his. If you deny his plea, he goes all the sooner, freed from imperfection, and with energies restored, into the presence of that Judge. You must meet him there, and then, no longer timid, stricken and dumb, he will have become as perfect, clear, and bright, as those who reviled him in his degradation and triumphed in his ruin.

And now what is Insanity? Many learned men have defined it for us, but I prefer to convey my idea of it in the simplest manner. Insanity is a disease of the body, and I doubt not of the brain. The world is astonished to find it so. They thought, for almost six thousand years, that it was an affection of the mind only. Is it strange that the discovery should have been made so late? You know that it is easier to move a burthen upon two smooth rails on a level surface, than over the rugged ground. It has taken almost six thousand years to learn that. But moralists argue that insanity shall not be admitted as a physical disease, because it would tend to exempt the sufferer from responsibility, and because it would expose society to danger. But who shall know better the bounds of human responsibility than the Almighty?

And is it strange that the brain should be diseased? What organ, member, bone, muscle, sinew, vessel or nerve is not subject to disease? What is physical man, but a frail, perishing body, that begins to decay as soon as it begins to exist? What is there of animal existence here on earth, exempt from disease and decay? Nothing. The world is full of disease, and that is the great agent of change, renovation and health.

And what wrong or error can there be in supposing that the mind may be so affected by disease of the body as to relieve man from responsibility? You will answer, it would not be safe. But who has assured you of safety? Is not the way of life through dangers lurking on every side, and though you escape ten thousand perils, must you not fall at last? Human life is not safe, or intended to be, against the elements.

er is it safe, or intended to be, against the elements of man's nature. It is not safe t pestilence, or against war, against the bolt of Heaven, or against the blow of man. But comparative safety can be se- if you will be wise. You can guard t war if you will cultivate peace. You ard against the lightning if you will learn as of electricity and raise the protecting You will be safe against the maniac if ill watch the causes of madness and rethem. Yet after all there will be danger from all these causes to remind you that e not immortal.

ough my definition would not perhaps be accurate, I should pronounce Insanity to derangement of the mind, characier and t, resulting from bodily disease. I use word derangement, because it is one in on every day use. What do we mean by Ve all understand what is meant when it that any thing is ranged or arranged. houses on a street are ranged if built upon ght line. The fences on your farms are l. A single object too may be ranged. er, if justly built, is ranged ; that is, it is l by the plummet. It rises in a perpen- t range from the earth. A file of men ing in a straight line are in range. ge yourselves, men," though not exactly cal, is not an uncommon word of com-

Now what do we mean when we use word "deranged"? Manifestly that a thing ranged, is not arranged, is out of range. houses on the street be built irregularly, re deranged. If the fences be inclined to ght or left, they are deranged. If there unequal pressure on either side, the tower an, that is, it will be deranged. If the file n become irregular, the line is deranged. a man be insane. There was a regular hich he was pursuing; not the same line you or I follow, for all men pursue dif- lines, and every sane man has his own ar path. All these paths are straight, and ranged, though all divergent. It is easy h to discover when the street, the fence, wer, or the martial procession is deranged. is quite another thing to determine when use of an individual life has become deranged. We deal not then with geometrical lines, but with an imaginary line. we no physical objects for land marks, ace the line backward by the light of im- t and unsatisfactory evidence, which it a matter almost of speculation whether has been a departure or not. In some ca- ided, the task is easy. If the fond moth- some the murderer of her offspring, it is o see that she is deranged. If the pious whose steps were firm and whose pathway aight to Heaven, sink without temptation riminal debasement, it is easy to see that deranged. But in cases where no natural ct or elevated principle throws its light our research, it is often the most difficult elicate of all human investigations to de- ne when a person is deranged.

have two tests. *First*, to compare the dual after the supposed derangement himself as he was before. *Second*, to his course with those ordinary lines man life which we expect sane persons of

equal intelligence and in a similar situation to pursue.

If derangement, which is insanity, mean on- ly what we have assumed, how absurd is it to be looking to detect whether memory, hope, joy, fear, hunger, thirst, reason, understanding, wit and other faculties remain! So long as life lasts they never cease to abide with man, whether he pursue his straight and natural way, or the crooked and unnatural course of the lunatic. If he be diseased his faculties will not cease to act. They will only act differently. It is contended here that the prisoner is not deranged because he performed his daily task in the State Prison, and his occasional labor afterwards; because he grinds his knives, fits his weapons, and handles the file, the axe and the saw as he was instructed, and as he was wont to do. Now the Lunatic Asylum at Utica has not an idle person in it except the victims of absolute and incurable dementia, the last and worst stage of all insanity. Lunatics are almost the busiest people in the world. They have their prototypes only in children. One lunatic will make a garden, another drive the plough, another gather flowers. One writes poetry, another es- says, another orations. In short, lunatics eat, drink, sleep, work, love, hate, laugh, weep, mourn, die. They do all things that sane men do, but do them differently. It is said however, that this prisoner has hatred and anger, that he has remembered his wrongs and nursed and cherished revenge, wherefore he cannot be insane. Cowper, a moralist who had tasted the bitter cup of Insanity, reasoned otherwise :

"But violence can never longer sleep  
Than Human Passions please. In ev'ry heart  
Are sown the sparks that kindle firy war;  
Occasion needs but fan them and they blaze,  
The seeds of murder in the breast of man."

Melancholy springs oftenest from recalling and brooding over wrong and suffering. Mel- ancholy is the first stage of madness, and it is only recently that the less accurate name of mono- mania has been substituted in the place of mel- ancholy. Melancholy is the foster-mother of anger and revenge. Until 1830, our statutory definition of lunatics was in the terms, "dis- orderly persons, who if left at large might en- danger the lives of others." Our laws now re- gard them as merely disorderly and dangerous, and society acquiesces, unless madness rise so high that the madman slays his imaginary en- emy and then he is pronounced sane.

The prisoner lived with Lawrence Lynch at the age of eight or nine, and labored occasion- ally for him during the last winter. Lynch visited him in the jail, and asked him if he re- membered him, and remembered living with him. The prisoner answered yes. Lynch asked the prisoner whether he was whipped while there, and by whom and why, the interrogatories being put in three different questions. From his answers it appeared that he had been whipped by his mistress for playing truant, and that he climbed a rough board fence in his night- clothes and fled to his mother. Upon this evi- dence the learned professor from Geneva Col- lege, Doctor Spencer builds, the argument that the prisoner has conception, sensation, memory, imagination and association, and is most com- petent for the scaffold. Now here are some

verses to which I would invite the Doctor's attention :

"Shut up in dreary gloom, like convicts are,  
In company of murderers ! Oh, wretched fate !  
If pity e'er extended through the frame,  
Or sympathy's sweet cordial touched the heart,  
Pity the wretched maniac, who knows no blame.  
Absorbed in sorrow, where darkness, poverty, and every  
curse impart."

Here is evidence not merely of memory and other faculties, but of what we call genius, yet these verses are a sad effusion of Thomas Lloyd, a man-slaying maniac in Bedlam.

The first question of fact here, Gentlemen, as in every case where Insanity is gravely insisted upon, is this :

IS THE PRISONER FEIGNING OR COUNTERFEITING INSANITY ?

What kind of man is he ? A youth of 23, without learning, education or experience. Dr. Spencer raises him just above the brute ; Dr. Bigelow exalts him no higher ; and Dr. Dizon pronounces that he has intellectual capacity not exceeding that of a child of ten years, with the knowledge of one of two or three. These are the People's witnesses. All the witnesses concur in these estimates of his mind.

Can you conceive of such a creature comprehending such a plot, and standing up in his cell in the Jail hour after hour, day after day, week after week, and month after month, carrying on such a fraud; and all the while pouring freely into the ears of inquisitors curious, inquisitors friendly, and inquisitors hostile, without discrimination or alarm, or apparent hesitation or suspicion, with "child-like simplicity," as our witnesses describe it, and with "entire docility," as it is described by the witnesses for the People, confessions of crime, which, if they fail to be received as evidences of Insanity, must constitute an insurmountable barrier to his acquittal ?

I am ashamed for men who without evidence of the prisoner's dissimulation, and, in opposition to the unanimous testimony of all the witnesses, that he is sincere, still think that this poor fool may deceive them. If he could feign, and were feigning, would he not want some counsel, some friend, if not to advise and assist, at least to inform him of the probable success of the fraud ? And yet no one of his counsel or witnesses has ever conversed with him but in a crowd of adverse witnesses ; and for myself, I have not spoken with him in almost two months, and during the same period have never looked upon him elsewhere than here in the presence of the Court and of the multitude.

Would a sane man hold nothing back ? admit every thing ? to every body ? affect no ignorance ? no forgetfulness ? no bewilderment ? no confusion ? no excitement ? no delirium ?

Dr. Ray, in his treatise on the Medical Jurisprudence of Insanity (p. 333) gives us very different ideas from all this of those who can feign and of the manner of counterfeiting :

"A person who has not made the Insane a subject of study, cannot simulate madness so as to deceive a physician well acquainted with the disease. Mr. Haslam declares that 'to sustain the character of a paroxysm of active insanity would require a continuity of exertion beyond the power of a sane person.' Dr. Conolly affirms that he can hardly imagine a case which

would be proof against an efficient system of observation.

"The grand fault committed by impostors is that they *overdo* the character they assume.

"The really mad, except in the acute stage of the disease, are generally speaking not readily recognized as such by a stranger, and they retain so much of the rational as to require an effort to detect the impairment of their faculties."

"Generally speaking, after the acute stage has passed off, a maniac has no difficulty in remembering his friends and acquaintances, the places he has been accustomed to frequent, names, dates and events and the occurrences of his life. The ordinary relations of things are with some exceptions as easily and clearly perceived as ever, and his discrimination of character seems to be marked by his usual shrewdness. \* \* \* \* \*

\* A person simulating mania will frequently deny all knowledge of men and things with whom he has always been familiar."

And now, gentlemen, I will give you a proof of the difference between this real science and the empiricism upon which the Counsel for the People rely in this cause. Jean Pierre was brought before the Court of Assizes in Paris in 1824, accused of forgery, swindling and incendiarism. He feigned Insanity. A commission of eminent physicians examined him, and detected his imposture by his pretended forgetfulness and confusion in answering interrogatories concerning his life and history. The most prominent of these questions, to all of which the accused answered with affected want of memory, are set down in the books. (Ray, p. 338.) I submitted these questions and answers, with a statement of Jean Pierre's case, to Dr. Spencer, and he, governed by the rules which have controlled him in the present cause, pronounced the impostor's answers to be evidence of Insanity, because they showed a decay of memory.

Again, gentlemen, look at the various catechisms in which this prisoner has been exercised for two months as a test of his sanity. Would any sane man have propounded a solitary one of all these questions to any one whom he believed to be of sound mind ? Take an instance. On one occasion, Dr. Willard, a witness for the People, having exhausted the idiot's store of knowledge and emotion, expressed a wish to discover whether the passion of fear had burned out, and employing Mr. Morgan's voice, addressed the prisoner thus : "Bill, they're going to take you out to kill you. They're going to take you out to kill you, Bill." The poor creature answered nothing. "What do you think of it, Bill ?" Answer. "I don't think about it—I don't believe it." "Bill," continues the inquisitor, with louder and more terrific vociferation, "they're going to kill you, and the doctors want your bones. What do you think of it, Bill ?" The prisoner answers, "I don't think about it. I don't believe it." The Doctor's case was almost complete, but he thought that perhaps the prisoner's stupidity might arise from inability to understand the question. Therefore, lifting his voice still higher, he continues : "Did you ever see the Doctors have any bones ? Did you ever see the Doctors have any bones, Bill ?" The fool answers, "I have." "Then where did you see them, Bill ?" "In Dr. Pitney's office." And thus by this dialogue the sanity of the ac-

cused is, in the judgment of Dr. Willard, completely established. It matters nothing that if he had believed the threat, his *belief* would have proved him sane; if he had been terrified, his *fears* would have sent him to the gallows; if he had forgotten the fleshless skeleton he had seen, he would have been convicted of *falsehood*, and of course have been sane. Of such staple as this are all the questions which have been put to the prisoner by all the witnesses. There is not an interrogatory which any one of you would put to a child of twelve years.

Does the prisoner feign insanity? One hundred and eight witnesses have been examined, of whom seventy-two appeared on behalf of the people. No one of them has expressed a belief that the prisoner was simulating. On the contrary, every witness to whom the inquiry has been addressed, answers that the sincerity of the prisoner is beyond a question.

Mr. John R. Hopkins says: "I watched him sharply to discover any simulation, but I could't. There was no deception. If there had been I should have detected it."

Ethan A. Warden, President of the village of Auburn, with whom the prisoner had the most extended of all conversations, says: "I suppose he thought he spoke the truth."

Ira Curtis, Esq., testifies: "It did occur to me whether the prisoner with his appearance of sincerity was attempting to play off a game of imposture. The thought vanished in a moment. There was too much before me. I have no doubt of his sincerity. I dont believe it is in the power of all in this room to teach him to carry on a piece of deception for fifteen minutes because he would forget what he set about."

Doctor Hermance says: "he spoke with so much sincerity."

The Reverend John M. Austin, says: "He did not dissemble. I should suppose him the shrewdest man in the world if he did dissemble. I have not the slightest doubt that there was no attempt to dissemble."

The tenor of the testimony of all the witnesses for the prisoner, learned and unlearned, is the same.

The witnesses for the people, learned and unlearned, concur.

Doctor Bigelow says: "He has betrayed no suspicion of me. He has manifested entire docility to me."

Doctor Spencer describes the manner of the witness in giving all his answers as "entirely frank."

Doctor Clary concludes the question of sincerity against all doubt. He says: "It seemed to me that he either thought he was reading or that he meant to deceive, and I dont think the latter, for he always seemed to be very frank."

It being thus absolutely settled, Gentlemen, that the prisoner does not simulate Insanity, I pass to the second proposition in this defence, which is, that IT IS PROVED THAT THE PRISONER IS CHANGED.

I shall first ask you to compare the prisoner now with himself in the earlier and happier period of his life.

Nathaniel Hersey, a witness for the People, a colored man, knew the prisoner seven years ago, and says: "he was a lively, smart boy, laughed, played, and was good natured; understood as

well as any body, could tell a story right off; talked like other folks."

This is the testimony of an associate of the prisoner at the age of sixteen.

John Depuy, is a brother-in-law of the accused and has known him more than twelve years. This witness says the prisoner, "was an active, smart boy, lively as any other you could find, a good boy to work, set him to work any where and he would do it, sociable and understood himself and had some learning, could read in the spelling book pretty well, could read off simple reading lessons in the spelling book, smooth and decent."

David Winner, a colored man, was the friend and companion of the parents of the Prisoner. He says: "when this boy was twelve or thirteen years old, he was a pretty sprightly lad, sensible, very lively. I saw no difference between him and any any other boy of sense at that time."

Lawrence Lynch, a witness for the people, in whose house the prisoner was an inmate at the age of eight years says, "he was a lively, playful boy, almost always smiling and laughing, and appeared to be a lively, laughing, playful boy."

Daniel Andrus, a witness for the people, testifies that he employed the prisoner eight years ago and talked with him then as he would with any other laboring man.

Mary Ann Newark has known the prisoner from childhood and says: "he was a lively, smart boy."

Honest Adam Gray, was a friend of the prisoner's parents and says: "he was a smart boy, was very active; always thought him a pretty cunning kind of a boy."

Doctor Briggs knew him twelve years ago as "a lad of ordinary intelligence for boys of his condition."

Robert Freeman was a fellow servant with the prisoner, at the American Hotel, eight years ago, and though he never entered into any argument with the prisoner, to find out his mother-wit, he says. "he was playful betimes, seemed to understand every thing and very active."

Dr. Van Epps knew the prisoner in his early infancy, and says: "He then appeared as bright and intelligent as children generally are at that age."

Thomas F. Muntoe, a witness for the People, certainly not partial to the prisoner, says that "in his youth he was quick and active and not much different from other black boys."

A. A. Vanderheyden, a witness for the People, represents the prisoner as "active and intelligent" in his youth.

Aretas A. Sabin, a witness for the People, knew the prisoner 15 or 16 years ago, and says: "he was no more or less playful than other boys," and *went* on entering the State Prison at the age of sixteen.

Jefferson Wellington, a hostile witness, testifies that the prisoner was sociable and talked freely upon general subjects at the age of sixteen.

Lewis Markham has known the prisoner from childhood and declares that "he was a smart boy, pretty active, quick, sprightly, shrewd, attentive and faithful, without any lack of conversational powers."

Ethan A. Warden received the prisoner into his family 15 or 16 years ago, "as a bright boy, and took him for the reason that he was well."

and now declares that "he was then a lad of good understanding and of kind and gentle disposition."

Sally Freeman, the prisoner's mother, gives this simple account of him. "When he was young he was a very smart child before he went to the State Prison. He was always very playful and good natured: about understanding things he was the same as other children."

Finally, Deborah Depuy, who is of the same age with the prisoner, of the same caste, and moves in the same humble sphere, testifies that she "knew him before he went to the State Prison, in childhood and youth." That "his manners, action and mind were very good, as good as other boys," that she "associated with him, he was as bright as any body else, he was very cheerful," she had "been with him to balls and rides, he acted very smart on such occasions," she had "talked with him often and never discovered any lack of intelligence."

Such, gentlemen, is a complete picture of the childhood and youth of the prisoner at the bar. Its truthfulness and fidelity are unquestioned, for all the witnesses on both sides have drawn it for you.

Look on that picture and then on the one I shall now present, and, since I must speak of a class lowly and despised,

"Let not Ambition mock their useful toil,  
Their humble joys and destiny obscure;  
Nor Grandeur hear with a disdainful smile  
The short and simple annals of the poor."

You have seen that the prisoner wept, as well he might, when he entered the State Prison at the age of sixteen. It was the last manifestation he has ever given of a rational mind.

Ethan A. Warden says: "I saw the prisoner in the State Prison. He appeared stupid and different from what he used to be, and from what I expected he would be. I cannot describe the difference. It was so peculiar. I said to him, 'Bill, are you here?' and repeated the question two or three times; at first he did not understand, but at last said 'Yes.' He appeared changed." We asked the witness whether he remarked the change to himself or others at the time, and the Court overruled the question.

John Depuy saw the prisoner in the State Prison at five different times, but was not allowed to speak with him. Depuy says the prisoner "was carrying something on his back like a knapsack, and walking back and forth in the yard. He did not appear as he did before he went to prison. He appeared stupid, took no notice of anything. He did not know me and took no notice of me. I saw him at other times when at work and when idle, and then thought there was something the matter with him. I thought he was not in his right mind."

William P. Smith was a foreman of one of the shops in the State Prison during the third year of the prisoner's confinement there, and had charge of him. He describes him as "passionate, sullen and stupid." This witness relates that the prisoner had greased his shoes neatly and set them upon a wood pile—that a convict accidentally disturbed the shoes, and that the prisoner struck the convict with a billet of wood with great violence, for which offence he was punished; that at another time, with as little provocation, he attacked another convict with great fury for displacing some yarn on a

fence. The witness says, "When I sent him on an errand, he required repeated and very particular instructions. I considered his intellect at the time very low indeed. He knew very little, not much more than a brute or beast."

Theron R. Green, who was a keeper in the Prison and had charge of the prisoner, declares that the prisoner "had very little mind, was a half day's man, was slow, awkward, dull, downcast, and would have frequent freaks of laughing without any observable cause of laughter." The witness "tried to instruct him in his cell on Sundays, but he could learn nothing." Mr. Green says, "He was irritable, malicious and of bad temper, often violated rules for which I did not punish him, because I thought him irresponsible. I think that he had as much capacity as a brute beast. I don't know as he had more. If more, there was none to spare. I remarked when he left the shop that he ought not to go at large."

Horace Hotchkiss was a teacher in the Sunday School at the State Prison, and says that the prisoner "was dismissed from the school because he could not be taught to read."

Such is the imperfect history of the prisoner at the bar, while he was shut up from the observation of men and deprived by the discipline of the State Prison of the use of speech and of the privilege of complaint.

He was discharged from Prison on the 20th of last September.

Alonzo Wood, the new Chaplain of the State Prison, visited him in his cell there twice during the last month of his confinement, and asked him questions, which the prisoner noticed only by inclining his head. The Chaplain expressed a hope to him on the day of his discharge that he might be able to keep out of Prison thereafter, and inquired whether he wanted a Bible. "I understood him to say," says the witness, "that it would be of no use—that he couldn't read. At the Clerk's office he received the usual gratuity of two dollars, for which he was required to sign a voucher. He answered, 'I have been in Prison five years unjustly, and aint going to settle so.' The officers, including the Reverend Chaplain, laughed heartily at what they thought such gross ignorance.

The prisoner's faithful brother in law, John Depuy was waiting in the hall to conduct him homeward. His narrative is simple and affecting. "I sat down," says Depuy, "on the long chair in the hall. He came out and passed me as if he didn't know me. I went up and touched him and asked him if he knew me, and he kind o' laughed. We came along to Applegate's, where I stopped to assist to raise a new building. He sat down on a pile of boards. He sat there and acted very stupid and dull and said nothing. They asked me what damned fool I had with me sitting there?

"He didn't know the value of his money. He had received four half dollars, and thought they were quarters. We went to the hatter's for a cap—found one worth half a dollar; he threw down two halves. I handed one back to him and told him to come out. After he came out he insisted that he had paid only half enough for the cap and that they would make a fuss about it." All the leisure hours of that day and the next were spent by the prisoner, according

ny's account, in giving relations of the in- and cruelty he had suffered in the Prison. He was very deaf, and assigned, as the of it, that Tyler, one of the keepers in the , had struck him across the ears with a and had knocked his hearing off so he 't hear, and his hearing had never come

"I asked him," says the witness, "if ad done any thing for his deafness. He Yes, they put salt in my ear, but it didn't good, for my hearing was gone and all ed off."

The prisoner told Depuy that while , he had broken his dinner knife in the , and the keepers had threatened to put ack five years for that ; and says Depuy, sked me if they could do it." He cond to Depuy, as we shall have occasion to reafer, that he had been wrongfully im- ed, and wanted to find the people who had him such injustice, for the purpose of get- ay from them.

h was the change which had come over isoner. The bright, lively, social, active of sixteen, had become a drivelling, sim- ol.

prisoner remained with Depuy some two months. He asked for Esquires, to get nts for the people who put him in the Prison ; at one time said the justices resu- give him warrants ; at another time, that ad got it all fixed, and he wanted Depuy down and see that he got his pay right ;" other, said that "he couldn't do nothing hem—they cheated him all the time, and idn't live so." He followed Depuy seven to Skaneateles, and brought him back to rn, to help the prisoner in a dispute Mr. Conklin, the harness-maker, about g some wood, for which he claimed 37½

Conklin refusing to pay him more than its. Depuy, dealing with the prisoner as righam would, made peace by paying him ifference, and settled in the same way a nce between the prisoner and Mr. Mur- ie merchant.

prisoner's mind was very unsteady during vinter. Depuy continues: "He did not half the time what he was doing ; he l go up the street and then turn and run ity in the other direction. He never com- ed any conversation with any body, never a question ; smiled without cause ; got up his bed at night many umer, sometimes r three times in the same night, and on occasions would sing irregularly, dance par, as if with a combatant ; saying some : 'By God ! I'll see you out ;' sometimesuld take a book and mumble words as if ig, but there was no sense in the words. I asked afterwards what he got up nightis e answered that he didn't know." The er never talked with any body after com- it of prison unless to answer in the sim- way questions put to him.

ny persons remember the negro with his deaf, sad and sullen, seeking occupation the wood yards during the half year of llargement. Few stopped to converse with but the reports of all confirm what has been ed by Depuy. Those who knew the pris- at all, were chiefly persons of his own caste. ny Ann Newark, says that she saw the

prisoner afier he came out of Prison, and he re- sided with her several days before the homicide. He did not recognize her in the street. "He sat still and silent when in the house, asked no questions and answered quick and short-like. His manner of acting was queer-like, he never mentioned any name or spoke of any body."

Nathaniel Hersey, the prisoner's old friend found him changed, had to speak loud to him, "he appeared to be quite stupid." Hersey ask- ed him what ailed him, "he said he was deaf, that they rapped him over the head at the prison."

Robert Freeman discovered that he appeared downcast when he first came out of prison. He spoke to the prisoner, who took no notice. Robert took hold of his hand and asked him how he did. The witness says "he appeared more dull and downcast, and I could not tell what the matter was ; could never establish any commun- ication with him."

Old Adam Gray, who knew him as "a pretty cunning kind of a boy," testifies : I think there is a change in him. It dont seem to me that he knows as much as he did before he went to Prison. He dont seem to talk as much, to have so much life, nor does he seem so sensible. Last winter he boarded with me two months. He would get up nights, take his saw and go out as if he was going to work, and come back again and go to bed. On such occasions he would try to sing but I couldnt understand what he said. He made a noise appearing as if he was dancing."

Some three weeks before the homicide, the prisoner was boarding at Laura Willard's. The truthful and simple minded David Winner, seems to have been led by Providence to visit the house at that time. He says, "I saw him first at his uncle Luke Freeman's. He then ap- peared to be a foolish man. I asked if that was Sally's son. I did not know him. They told me it was. I said, he is very much altered. They said, he has just come out of State Prison. He had altered very much in his looks and be- haviour. He was sitting down in a chair in the corner snivelling, snickering and laughing and having a kind of simple look. I spoke to him ; he didn't speak ; I saw nothing for him to laugh at. I staid three days and three nights at Lau- ra Willard's and slept with William in the same bed. At night he got up and talked to himself ; I couldnt understand what he said. He ap- peared to be foolish. I gave him a dollar to go down to Barileit's to get a quartier of a pound of tea and two pounds of sugar, and to the market and get a beefsteak. He went to market and got it all in beefsteak. He got a dollar's worth of beefsteak. When I asked what that was for, he said nothing, but laughed at me. He got up nights two or three times, and I felt cold and told Laura I wouldn't sleep with him any more, and I went and slept in the other room. I got afraid of him and I wouldn't sleep with him any more. He sung when he got up nights, but you couldn't understand what he sung. There was no meaning in what he sung."

Deborah Depuy says, "After he came out of Prison, there was a change. If I talked to him very loud he would talk, say very little only to answer me. He didn't act cheerful, but very stupid ; never said any thing until I talked to him. He never talked to me as he did before

he went to Prison. He had a strange smile. He would laugh very hearty without any thing to laugh at. He wouldn't know what he was laughing at. He would knock at the door and I would let him in, and he would sit down and laugh. I would ask what he was laughing at; he said, he didn't know. When I asked questions, he would either answer yes, or no, or don't know. I asked him how his hearing was hurt. He said they struck him on the head with a board and it seemed as if the sound went down his throat. I have asked him why he was so stupid. I don't think he is in his right mind now, nor that he has been since he came out. The reason is that he never used to act so silly, and sit and laugh so, before he went to Prison."

His mother, Sally Freeman, describes the change which had come over her child, in language simple and touching. "I never knew he was foolish or dumpish before he went to Prison. After he came out of Prison, he didn't act like the same child. He was changed and didn't appear to know any thing. As to being lively after he came out, I didn't see any cheerfulness about him. He was either sitting or standing when I afterwards saw him, and when I asked him a question he would answer, but that is all he would say. He appeared very dull. He never asked me any questions after he came out, only the first time he saw me he asked me if I was well. From that time to this he has never asked me a question at all. He didn't come to see me more than half a dozen times. When he came, perhaps he would ask me how I did, and then sit down and laugh. What he laughed at was more than I could tell. He laughed as he does now. There was no reason why he should laugh. He was laughing to himself. He didn't speak of any thing when he laughed. I never inquired what he laughed at. I didn't think he was hardly right, and he was so deaf I didn't want to. I asked him how he got deaf, and he told me his ear had fell down, or some such foolish answer he gave me. He would stay an hour or so. He generally sat still. I went to see him in the Jail after he killed the Van Nest family, on the first day of the trial. He laughed when I went in, and said he was well. I talked to him. I asked him if he knew what he had been doing. He stood and laughed. I asked him how he came there. He didn't say much of any thing, but stood and laughed. When I went away he didn't bid me good-bye nor ask me to come again. I have never been to see him since, and never received any message from him of any kind since he has been in Jail. I don't know that he noticed me when I was on examination before. I don't think he is in his right mind or that he has been since he came out of Prison. The reason is that he acts very foolish and don't seem as though he had any senses."

You will remember that we have seen the prisoner a smart, bright, lively, cheerful and playful youth, attending Deborah Depuy at balls, parties and rides; for negroes enjoy such festivities as much and even more than white men. Deborah says he no longer attends. But from the testimony of John Depuy we find him at a dance in the house of Laura Willard, on the night before the slaughter of the Van Nest family. The scene was the same as before. There was music, and gallantry, and revelry, and mer-

iment, and laughing, and dancing. But while all others were thus occupied, where was the prisoner and how was he engaged? He was leaning against the wall, sullen, gloomy, silent, morose, pressing with his hand the knife concealed in his bosom and waiting his opportunity to strike to the heart his brother-in-law and benefactor.

This is the change which had come over the prisoner when he emerged from the State Prison, as observed by the few of his kindred and caste, who had known him intimately before.— How many white men who knew him in his better days, have we heard confirm this testimony by saying that they lost sight of him when he went to prison, that they met him in the street, downcast and sullen, with his saw in his hand, seeking casual occupation, that they spoke to him but he did not hear or did not answer, and they passed on! Only two or three such persons stopped to enquire concerning his misfortunes or to sympathise with him.

William P. Smith says: "the first time I saw him after he came out of prison, was in November. I asked him how he did. He made no answer. A little black boy with him told me he was deaf. I spoke to him to try and induce conversation and finally gave it up; I couldn't make him understand. He appeared different from what I had known him before, appeared dumpish, didn't say much and seemed to stand around. I met him once or twice in the street, merely met him, he noticed nothing."

Doctor Hermance, did not know him before he went to prison. His peculiarities attracted the Doctor's attention and he enquired the cause. The prisoner answered that he had been five years in the State Prison and he wasn't guilty, and they wouldn't pay him. The Doctor says: "I discovered that he was very deaf and enquired the cause of his deafness. He stated that his ears dropped. I thought his manners very singular and strange, and what he said about pay very singular and strange. He spoke in a gloomy, despondent state of mind. There appeared to be a sincerity in his manner. The tone of his voice was a dull and monotonous tone. I thought at the time that he was deranged."

To complete this demonstration of the change, I have only to give you the character of the negro now, as he is described by several of the witnesses, as well on the part of the people as of the prisoner, who have seen him in prison, and as he is admitted to be.

Warren T. Worden, Esq., an astute and experienced member of the bar, visited him in his cell in the jail and says: "I formed an opinion then, that he knew nothing, and I expressed it. I do not believe him sane; I don't believe he understands what is going on around him. He would laugh upon the gallows as readily and as freely as he did in his cell. He would probably know as much as a dumb beast who was taken to the slaughter-house as to what was to be done with him. If that state of mind and knowledge constitute insanity, then he is insane."

Doctor Fosgate, one of the soundest and most enlightened men in our community, who was his physician in the jail, and dressed his wounded hand, describes him as "insensible to pain, ignorant of his condition and of course indifferent to his fate, grinning constantly idiotic smile

in any perceptible cause and rapidly sink-  
o idiocy."

Curtis, who knew him in his youth, and  
w carefully examined him in the jail,  
"he is incapable of understanding—he is  
ol, bordering on idiocy—crazy and an idiot  
and crazy and insane both. It all the  
s in the world should say he was, not a  
shouldn't believe them."

or Briggs, who it will be recollectd knew  
the age of eight or nine, examined him  
jail and says: "my opinion is and was,  
e has less mind than when I knew him  
—that his mind has become impaired."

im P. Smith, who knew him before he  
to the State Prison and while there, pa-  
examined him in the Jail, and says :  
e was a change, a sensible change in the  
He didn't appear to know as much, to  
s many ideas about him, as many looks  
lligence. I don't know as I could de-  
it very well. There was a slowness, a  
is ; I thought what little intellect he had  
l to sink lower down, from some cause or

His physical strength and vigor were  
the Prison. He appeared active, strong  
ergetic. Now, his manner appears more  
upid and inattentive."

Van Epps says: "Now he appears to have  
effect of a child five years old."

in A. Warden, the prisoner's earliest and  
friend, says: "I look at him now and  
e lived with me. He appears different.  
I not get any thing that appeared like sor-  
r what he had done or feeling for the  
I don't think him much above a brute."

R. Hopkins says: "I think him in intel-  
but little above the brute."

ed not pursue the parallel further. There  
ispute as to his present ignorance and de-  
ent.

Dimon, a witness for the People, although  
ounces the prisoner sane, says he should  
"he has not as much intellect as a child  
teen years of age, is in some respects  
equal to a child of three or four" and in  
to knowledge compares him with "a  
wo or three years old, who knows his A  
d can't count twenty eight."

Bigelow, a leading witness for the people,  
s: "I believe him to be a dull, stupid,  
, morose, depraved, degraded negro, but  
ane"; and Dr. Spencer, swearing to the  
onclusion, says: "he is but little above  
ite, yet not insane."

omit to you, Gentlemen of the Jury, that  
iparing the prisoner with himself, as he  
his earlier and as he is in his later his-  
have proved to you conclusively that he  
ly changed and altered in mind, manner,  
sation and action, and that all his facul-  
ve become disturbed, impaired, degraded  
based. I submit also that it is proved,  
hat this change occurred between the  
th and the eighteenth years of his life, in  
te Prison, and that therefore the change  
ipable was not, as the Attorney General  
ls, effected by the mere lapse of time and  
e of years, nor by the mere natural de-  
ent of latent dispositions. *Secondly*,  
asmuch as the convicts in the State Pris-  
absolutely abstemious from intoxicating

drinks, the change was not produced by intem-  
perance, as the Attorney General supposes.

Thus I have arrived at the *third* proposition  
in this case, which is, that **THE PRISONER AT THE  
BAR IS INSANE**. This I shall demonstrate, *first*,  
by the fact already so fully established, that the  
prisoner is changed; *Secondly*, by referring to  
the predisposing causes which might be expec-  
ted to produce Insanity; *Thirdly*, by the inco-  
herence and extravagance of the prisoner's con-  
duct and conversation, and the delusions under  
which he has labored.

And now, as to predisposing causes. The  
prisoner was born in this village, twenty-three  
years ago, of parents recently emerged from  
slavery. His mother was a woman of violent  
passions, severe discipline and addicted to in-  
temperance. His father died of *delirium tre-  
mens*, leaving his children to the neglect of the  
world, from which he had learned nothing but  
its vices.

Hereditary insanity was added to afflictions  
already sufficiently complicated. His aunt Jane  
Brown died a lunatic. His uncle Sidney Free-  
man is an acknowledged lunatic.

All writers agree, what it needs not writers  
should teach, that neglect of education is a fruit-  
ful cause of Insanity. If neglect of education  
produces crime, it equally produces Insanity.  
Here was a bright, cheerful, happy child, des-  
tituted to become a member of the social state,  
entitled by the principles of our Government to  
claim equal advantages for perfecting himself in  
intelligence and even in political rights, with each  
of the three millions of our citizens, and entitled  
by our religion to equal hopes. Without his be-  
ing taught to read, his mother, who lives by me-  
nial serv.ce, sends him forth at the age of eight  
or nine years to like service. Reproaches are  
cast on his mother, on Mr. Warden, and on Mr.  
Lynch for not sending him to school, but these  
reproaches are all unjust. How could she, poor  
iegrated negress and Indian as she was, send  
her child to school? and where was the school  
to which Warden and Lynch should have sent  
him? There was no school for him. His few  
and wretched years date back to the beginning  
of my acquaintance here, and during all that  
time, with unimportant exceptions, there has  
been no school here for children of his caste.  
A school for colored children was never estab-  
lished here, and all the common schools were  
closed against them. Money would always pro-  
cure instruction for my children and relieve me  
from the responsibility. But the colored chil-  
dren, who have from time to time been confided  
to my charge, have been cast upon my own care  
for education. When I sent them to school  
with my own children, they were sent back to  
me with a message that they must be with-  
drawn because they were black, or the school  
would cease. Here are the fruits of this un-  
manly and criminal prejudice. A whole family  
is cut off in the midst of its usefulness and hon-  
ors by the hand of an assassin. You may  
avenge the crime, but whether the prisoner be  
insane or criminal, there is a tribunal where this  
neglect will plead powerfully in his excuse, and  
trumpet-tongued against the "deep damnation"  
of his "taking off."

Next the prisoner, was subjected in tender

years to severe and undeserved oppression.

Whipped at Lynch's; severely and unlawfully

flogged by Wellington, for the venial offence of forgetting to return a borrowed umbrella; hunted by the Police on charges of petty offences of which he was proved innocent; finally, convicted upon constructive and probably perjured evidence of a crime, of which it is now universally admitted he was guiltless, he was plunged into the State Prison at the age of sixteen, instead of being committed to a House of Refuge.

Mere imprisonment is often a cause of Insanity. Four insane persons have been mentioned in this trial, as residing among us, all of whom became insane in the State Prison. Authentic statistics show that there are never less than thirty insane persons in each of our two great penitentiaries. In the State Prison he was subjected to severe corporal punishment, by keepers who mistook a decay of mind and morbid melancholy, for idleness, obstinacy and malice. Beaten until the organs of his hearing ceased to perform their functions, who shall say that other and more important organs connected with the action of his mind did not become diseased through sympathy? Such a life, so filled with neglect, injustice and severity, with anxiety, pain, disappointment, solicitude, and grief, has its fitting conclusion in a mad-house. If it be true as the wisest of inspired writers hath said, "Verily oppression maketh a wise man mad," what may we not expect it to do with a foolish, ignorant, illiterate man! Thus it is explained why, when he came out of Prison he was so dull, stupid, morose, excited to anger by petty troubles, small in our view but mountains in his way, filled in his waking hours with moody recollections, and rising at mid-night to sing incoherent songs, dance without music, read unintelligible jargon and combat with imaginary enemies.

How otherwise than on the score of madness can you explain the stupidity which caused him to be taken for a fool at Applegate's, on the way from the Prison to his home? How else the ignorance which made him incapable of distinguishing the coin which he offered at the hatter's shop? How else his ludicrous apprehensions of being recommitted to the State Prison for five years, for the offence of breaking his dinner knife? How else his odd and strange manner of accounting for his deafness, by expressions, all absurd and senseless, and varying with each interrogator; as to John Depuy "that Tyler struck him across the ears with a plank, and knocked his hearing off, and that it never came back; that they put salt in his ear, but it didn't do any good for his hearing was gone, all knocked off;" to the Rev. John M. Austin, "the stones dropped down my ears, or the stones of my ears dropped down;" to Ethan A. Warden, "got stone in my ear, got it out, thought I heard better when I got it out;" to Doctor Hermance, "that his ears dropped," and to the same witness on another occasion, "that the hearing of his ears fell down;" to his mother, "that his ear had fell down;" to Deborah Depuy, "that Tyler struck him on the head with a board and it seemed as if the sound went down his throat;" to Doctor Brigham, "that he was hurt when young, it made him deaf in the right ear," also "that in the Prison he was struck with a board by a man, which made him deaf," and also "that a stone was knocked into, or out of his ear?"

It is now perfectly certain from the testimony of Mr. Van Arsdale and Helen Holmes, that the prisoner first stabbed Mrs. Van Nest, in the back yard, and then entered the house and stabbed Mr. Van Nest, who fell lifeless at the instant of the blow. And yet sincerely trying to give an account of the dreadful scenes, exactly as they passed, the prisoner has invariably stated in his answers to every witness, that he entered the house, stabbed Van Nest, went into the yard, and then, and not before, killed Mrs. Van Nest. It was in this order that he related the transaction to Warren T. Worden, to John M. Austin, to Ira Curtis, to Ethan A. Warden, to William P. Smith, to Doctor Van Epps, to James H. Bostwick, to Doctor Brigham, to Nathaniel Lynch, to Doctor Willard, to Doctor Bigelow and to Doctor Spencer. How else than on the score of madness can you explain this confusion of memory? and if the prisoner was sane and telling a falsehood what was the motive?

How else than on the score of a demented mind will you explain the fact that he is without human curiosity—that he has never since he came out of prison learned a fact or asked a question? Visited by hundreds in his cell, by faces become familiar and by strangers, by fellow prisoners, by jailers, by sheriff, by counsel, by physician, by friends, by enemies and by relations, they unanimously bear witness that he never has asked a question. The oyster shut up within his limestone walls, is as inquisitive as he.

How else will you explain the mystery that he who seven years ago had the capacity to relate connectively any narrative, however extended, and however complex in its details, is now as unable to continue any relation of the most recent events without the prompting of perpetual interrogatories, always leading him to known landmarks; and that when under such discipline he answers, he employs generally only the easiest form, "Yes," "No," "Don't know."

Then mark the confusion of his memory manifested by contradictory replies to the same question. Warren T. Worden asked him "did you go in at the front door? Yes. Did you go in at the back door? Yes. Were you in the hall when your hand was cut? Yes. Was your hand cut at the gate? Yes. Did you stab Mrs. Wyckoff in the hall? Yes. Did you stab Mrs. Wyckoff at the gate? Yes. Did you go out at the back door? Yes. Did you go out at the front door? Yes."

Ethan A. Warden asked him, "What made you kill the child?" "Don't know any thing about that." At another time he answered, "I don't think about it. I didn't know it was a child;" and again, on another occasion, "Thought feel it more;" and to Dr. Bigelow and other witnesses who put the question whether he was not sorry he had killed the child, he replied, "It did look *hard*. I rather it was bigger." When the ignorance, simplicity and sincerity of the prisoner are admitted, how otherwise than on the ground of Insanity, can you explain such inconsistencies as these?

The testimony of Van Arsdale and Helen Holmes proves that no words could have passed between the prisoner and Van Nest, except these "What do you want here in the house?" spoken by Van Nest, before the fatal blow was struck.

en inquired of by Warren T. Worden an Nest said to him when he entered the prisoner said, after being pressed for ver, that Van Nest said to him, "If you liver, I'll eat yours"; and he at various epeated to the witness the same absurd ion. To the Reverend John M. Austin e the same statement, that Van Nest said, a eat my liver, I'll eat your liver," to vis the same; to Ethan A. Warden the to Lansing Briggs the same; and the o almost every other witness. An ex-1 so absurd under the circumstances never have been made by the victim. herwise can it be explained than as the of a mind shattered and crazed? prosecution, confounded with this evi- appealed to Dr. Spencer for relief. He, plenitude of his learning, says, that he d of an ancient and barbarous People ed to least upon the livers of their enemies, prisoner has not imagination enough to vented such an idea, and that he must nowhere heard the tradition. But when demented wretch, who reads "woman" mirable," and "cook" for "Thompson," vy or Tyler, and in what classical circle learned the customs of the ancients? it perhaps is more pertinent, who were cien and barbarous People, and who was istorian?

der now the prisoner's earnest and well-attucity in believing that he could read, ther he never had acquired or else had lost er of reading. The Rev. Mr. Austin, at day visited him in jail, asked him whehould read, and being answered that he gave him a Testament. In frequent vis-rwards, when the prisoner was asked r he had read his Testament, he an- "Yes," and it was not until after the two months that it was discovered that unable to spell a monosyllable.

Curtis says, "I asked him if he could e said, Yes, and commenced reading, he pretended to, but he didn't read what re. He read 'Oh! Lord—mercy—Mod other words mixed up in that way. words were not in the place where he to be reading, and it was no reading at some words he had over I had never efore. I took the book from him, sayou don't read right.' He said, 'Yes, I said, 'William, you can't read.' He can.' I gave him a paper, pointed him word, 'admirable'—he pronounced it, a.' I pointed to the word, 'Thompson' ad it, 'cook.' He knew his letters and hem accurately, but could not combine I asked him to count. He commenced inted from one up to twenty, hesitated one time, and finally counted up to twenty, and then jumped to eighty. Then I him at twenty, and he said, 'one.' I to say, 'twenty-one'; but he seemed difficulty in saying, 'twenty-one.' He go on. He did count up to twenty reg- hesitating: but never went higher than eight correctly. I asked him how much es four was—he said, 'eighty.' How vo times three was—he said, 'sixty or ur.' Many other witnesses on both

sides of this cause, Mr. Austin, Mr. Hopkins, Mr. Hotchkiss, Mr. Warden, Mr. Smith, Dr. Van Epps, Dr. Brigham, Dr. McCall, Dr. Coven- try, Dr. Willard, Dr. Bigelow, Dr. Clary and Dr. Spencer have, with varied ingenuity, sought to detect a fraud in this extreme ignorance and simplicity, and have unanimously testified to you that the simpleton sincerely believes he reads accurately, and as honestly thinks he counts above twenty-eight correctly, while in truth he cannot advance beyond that number in counting and cannot read at all. Yet he must have learned in the Sunday School at least that he could not read, and the Keepers of the Prison show that then he put up his daily manutacture of rings and skeins of thread, in quantities accurately counted to the number of several dozen.

I think you will agree with Doctor Hin, that there is not a sane man of twenty three years of age brought up in this country, who does not know whether he can read, and who cannot count twenty-nine.

Mark his indifference and stupidity as to his situation. Ethan A. Warden asked him, "do you expect to be hung? Dont think about it. Do you like to be in jail? Pretty well. Is it a good place? Yes. Do you sleep well? Yes, Do you think of what you've done? No."

William P. Smith asked him in the jail if he knew wheher he was in jail or in the Prison, He hesitated some time, and finally thought he was in the jail, but was'nt sure. "Do you know what you are confined here for? No."

Doctor Van Epps asked him what he was put in jail for. Don't know. Afterwards he seemed to re-collect himself and said 'horse.'

Doctor Brigham says "I tried in various ways to ascertain if he knew what he was to be tried for. I tried repeatedly and never could get a distinct answer. It was often 'I dont know,' and sometimes 'a horse.' I asked him at one time 'what his defence would be. Shall we say that you did not kill? He answered very quickly, looking up, no. But may we not say so? No, that would be wrong; I did do it. Some one asked him when others were there, may we say you are crazy? I can't go so far as that.' I asked him if he had employed any body to defend him, and said Mr. Seward is now here. you had better employ him and tell him what to say. Here is Mr. Seward, ask him. He said in a reading tone, 'Governor Seward, I want you to defend me,' repeating the words I had told him to use."

When on trial for stealing a horse six years ago, he had counsel of his own choice and was treated and tried as a man who understood and knew his rights, as indeed it is proved that he did. Here his life is at stake. He does not know even the name of a witness, for or against him, although his memory recalls the names of those who testified against him on the trial for stealing the horse, and the very effect of their testimony.

Doctor Brigham says, "I asked him what he could prove in his defence. He replied *the jury* can prove that I was in prison five years for stealing a horse, and did'nt steal it."

When asked if he is not sorry for crimes so atrocious, he answers always either "no," or "dont know."

On the very day when he was to be arraigned,

he had no counsel ; and as Mr. Austin testifies, was made to understand with difficulty enough to repeat like a parrot a consent that I should defend him. The Attorney General says the prisoner "knew he was guilty, and that counsel could do nothing for him. If he was as wise and as intelligent as Bacon himself, he could give no instructions to counsel that would help him." Aye, but is he as wise and as intelligent as Bacon ? No, Gentlemen, no man ever heard of a sane murderer in whose bosom were extinguished alike, the love of life and the fear of death. The accused sat here in court and saw Doctor Bigelow on the stand swearing away his life upon confessions already taken. Doctor Bigelow followed him from the court to his cell, and there the prisoner with child like meekness sat down on his bench and confessed for hours, all the while holding the lamp by whose light Doctor Bigelow recorded the testimony, obtained for the purpose of sealing his fate, beyond peradventure.

He was asked about the Judges here, was ignorant where they sat, and could only remember that there was a good looking man on the elevated stage, which he was told was the bench. He was asked what they say in court, and he says "they talk, but I hear nothing;" what or whom they are talking about, and he says "don't know;" whom he has seen here, and he recalls not his Judges, the Jury, the Witnesses or Counsel, but only the man who gave him tobacco.

From his answers to Mr. Hopkins, Mr. Austin, Mr. Smith, and others, as well as from the more reliable testimony of his mother, of his brother in-law, of Mr. Lynch, Mr. Warden, Mr. Hotchkiss, and others, we learn that in his childhood, and in State Prison, he attended Sunday School and Divine Worship. Yet we find him at the age of 23 in jail, after repeated religious instructions, having no other idea of a Supreme Being and of a future state than that Heaven was a place above, and God was above, but that God was no more than a man or an animal. And when asked by Mr. Hopkins what he knew about Jesus Christ, he answered that he once came to Sunday School in the State Prison. What did he do there ? Don't know. Did he take a class there ? Don't know. Did he preach ? Don't know. Did he talk ? Don't know. The prisoner gave the same answers to the Rev. Mr. Austin, to Mr. Hopkins his Sunday School teacher, and to Doctor Brigham.

Mr. Horace Hotchkiss says "I asked him in the jail if you shall be convicted and executed what will become of you. He answered, Go to Heaven. I asked him why, and he replied, because I am good." Doctor Brigham enquired: 'do you know any thing of Jesus Christ ?' 'I saw him once.' 'Did you kill him at Van Nest's ?' The poor fool (as it laboring with some confused and inexplicable idea) said, Don't know. Gentlemen, I think you will agree with Dr. Hun, Dr. Brigham and the other intelligent witnesses, who say that, in their opinion, there is no sane man of the age of 23, who has been brought up in Church-going families and been sent to Sunday School, whose religious sentiments, under such circumstances would be so confused and so absurd as these.

To the Rev. Mr. Austin, he said after his arrest, "if they will let me go this time, I will try

and do better." And well did that witness remark, that such a statement evinced a want of all rational appreciation of the nature and enormity of his acts, for no man 23 years old, possessing a sound mind, and guilty of four cold murders, could suppose that he would be allowed to escape all punishment by simply promising like a petulant child that "he would do better."

Mark his insensibility to corporeal pain and suffering. In the conflict with Mrs. Wyckoff, he received a blow which divided a sinew in his wrist and penetrated to the bone. The physicians found him in the Jail with this wound, and his legs chained with heavy irons depending unequally from his knees. Yet he manifested absolute insensibility. Insane men generally are very insensible to pain. The reason is that the nervous system is diseased and the senses do not convey to the mind accurate ideas of injuries sustained. Nevertheless this passes for nothing with Dr. Spencer, because there was an ancient sect of Philosophers who triumphed or affected to triumph over the weakness of our common nature, and because there are modern heroes who die without a groan on the field of battle. But in what school of Philosophy or in what army, or in what battle-ship was this idiot trained, that he has become insensible to pain, and reckless of death.

Gentlemen, I proposed at the close of the testimony that you should examine the prisoner for yourselves. I regret that the offer was rejected. You can obtain only very imperfect knowledge from testimony in which the answers of the prisoner are given with the freedom and volubility of the interrogators. We often judge more justly from the tone, manner and spirit of those with whom we converse than from the language they use. All the witnesses agree that the prisoner's tone and modulation, are slow, indistinct, and monotonous. His utterance in fact, is that of an idiot, but on paper it is as distinct as that of Cicero.

I have thus shown you, gentlemen, the difficulties which attend you in this investigation; the law concerning insanity, the nature and characteristics of that disease, the great change which the prisoner has undergone, and some of those marked extravagances which denote lunacy. More conclusive evidence yet remains: and first, the delusion by which the prisoner was overpowered, and under whose fearful spell his crimes were committed.

Delusion does not always attend insanity, but when found it is the most unequivocal of all proofs. I have already observed that melancholy is the first stage of madness, and long furnished the name for insanity. In the case of Hatfield who fired at the king in Drury Lane Theatre, Lord Erskine his counsel, demonstrated that insanity did not consist in the absence of any of the intellectual faculties, but in delusion; and that an offender was irresponsible if his criminal acts were the immediate unqualified offspring of such delusion. Erskine there defined a delusion to consist in deductions from the *immovable* assumption of matters *as realities*, either without any foundation whatever, or so distorted and disfigured by fancy as to be nearly the same thing as their creations.

The learned men here, have given us many illustrations of such delusions; as that of the man who believes that his legs are of glass and

ore refuses to move for fear they will of the man who fancies himself the king nce or of him who proclaims himself Em- of the world. These are palpable delu- but there are others equally or even more in their effects, which have their foun- some original fact, and are thus de- by Dr. Ray, page 210:

another class of cases, the exciting cause ncidal insanity, is of a moral nature, ope- upon some peculiar physical predisposi- and sometimes followed by more or less al disturbance. Instead of being urged a sudden imperious impulse to kill, the ts of this form of the affection, after suf- for a certain period much gloom of mind fpression of spirits, feel as if bound by a of necessity to destroy life, and proceed to fulment of their destiny with the utmost ess and deliberation. So reluctant have and juries usually been to receive the f insanity in defence of crime, deliberately ed and executed by a mind in which no gement of intellect has ever been perce- it is of the greatest importance that ture of these cases should not be mis- od."

learned witnesses have given us various ions of delusions. Dr. Hun's is per- is clear and accurate as any: "It is a hed opinion opposed by the sense and ent of all mankind." In simple speech what is called the predominance of one by which reason is subverted. I shall now you such a predominance of one idea as acidate the progress of this maniac, from disturbance of his mind to the dreadful rophe on the shore of the Owasco Lake. delusion is a star to guide your judgments infallible conclusion that the prisoner is . If you mistake its course and consign a scaffold, it will rest over his grave, in- ing him as a martyr, and you as erring or judges.

April, 1840. Mrs. Godfrey, who resides in own of Sennett, on the middle road four north east of Auburn, lost a horse. One Furman, a hardened offender, stole the

For some purpose not now known he m into the care of the prisoner, who was with him. Both Furman and Freeman were ed. Jack was the real thief and Freeman uctively guilty. Freeman was arrested by eheyden, taken into an upper chamber ere declared his innocence of the crime. He nevertheless committed to Jail. All the pond the most prejudiced of the witnesses for ple have testified their entire conviction e prisoner was innocent. Furman was se- by favor as a witness for the people. Free- while in jail, comprehending his danger and us of his innocence, dwelt upon the injus- until having no other hope he broke the and escaped. Being retaken he assigned reason for his flight, that Jack Furman he horse but was going to swear him into ate Prison. The result was as he appre- d. He was convicted by the porjury of an and sentenced to the State Prison for ears. This was the first act in the awful y of which he is the hero. Let Judges urors take warning from its fatal conse- es. How deep this injustice sunk into his

mind may be seen from the testimony of Aretas A. Sabin the keeper, who said to him on the day he entered the Prison. "I am sorry to see you come here so young." The prisoner wept. Well would it have been, if this, the last occasion on which the prisoner yielded to that infirmity, ominous as it was of such fatal mischief, had been understood and heeded.

A year passed away; and he is found in the Prison, neglecting his allotted labor, sullen, and morose.

James E. Tyler, the keeper, says: "I had talked to him and found it did no good. I called him up to punish him—told him I was going to punish him for not doing more work, and should do so repeatedly until he should do more work. When I talked with him about doing more work, he gave for an excuse *"that he was there wrong/fully, and ought not to work."* The excuse aggravated the severity of his castigation. Such was the enitentiary cure for incipient insanity.

Van Kuren, a foreman in one of the shops of the Prison, represents him as sullen, intractable and insolent. He reported the prisoner for punishment, and caused him to be punished, although he then discovered that idiotic laugh, on all occasions, without cause or motive, which marks the maniac.

Silas E. Baker remarked the same idiotic laugh, when the prisoner was at his work, in the cell, and in the Chapel.

William P. Smith, a foreman in the prison, remarked his peculiarities, but unfortunately was not then led to their true cause.

Theron R. Green, as has been already seen, discovered the same peculiarities, divined the cause, held him irresponsible, and gave an un- heeded warning against his enlargement.

The discipline of the Prison, forbids conversa- tion between convict and convict, and between keepers and prisoners. The iron that had entered his soul, was necessarily concealed, but Depuy and Warden and Green, who thought him then changed, as well as Smith, VanKeuren, Baker and Tyler, who regarded him only as ig- norant and obstinate, give conclusive evidence that the ruin of his mind, was betrayed in a vis- ible change of his appearance, conduct and character.

The time at length arrived, when the secret could no longer be suppressed. The new Chap- lain, the Reverend Alonzo Wood, was in the Agent's office when the prisoner was discharged. Two dollars, the usual gratuity, was offered him, and he was asked to sign a receipt. *"I aint go- ing to settle so."* For five years had been impressed upon his mind, that he had been imprisoned wrongfully, and therefore would be entitled to payment on his liberation, until it became the ruling thought of his life. This idea was opposed *"by the judgment and sense of all mankind."* The court who had convicted him, pronounced him guilty, and spoke the seuse and judgment of mankind. But still he remained unconvinced. The Keepers who flogged him, pronounced his claim unjust and unfounded—and they were exponents of the "sense and judgment of all mankind." But imprisonment, bonds and stripes, could not re- move the one inflexible idea. The Agent, the Keepers, the Clerk, the spectators, and even the Reverend Chaplain, laughed at the simplici-

ty and absurdity of the claim of the discharged convict, when he said, "*I've work'd five years for the State, and aint going to settle so.*" Alas! little did they know that they were deriding the delusion of a maniac. Had they been wise they would have known that

"So foul a sky clears not without a storm."

The peels of their laughter were, the warning voice of Nature, for the safety of the family of Van Nest.

Thus closes the second act of the sad drama.

The maniac reaches his home, sinks sullenly to his seat, and hour after hour, relates to John Depuy the story of his wrongful imprisonment, the cruel and inhuman treatment which he had suffered, enquires for the persons who had caused him to be unjustly convicted, learns their names, and goes about, drooping, melancholy and sad, dwelling continually upon his wrongs, and studying intensely in his bewildered mind how to obtain redress. Many passed him, marking his altered countenance and carriage, without stopping to enquire the cause. Dr. Hermance alone sought an explanation. "I met him about the first of December last; I thought his manner very singular and strange. I enquired the cause; he told me that he had been in the Prison for five years, and that he was'nt guilty, and that they would'nt pay him. I met him afterwards in the street, again remarked his peculiarities and enquired the cause. He answered as before, that he had been in State Prison five years wrongfully, and they would'nt pay him."

The one idea disturbs him in his dreams and forces him from his bed; he complains that he can make no gain, and can't live so; he dances to his own wild music, and encounters visionary combatants.

Time passes on until February. He visits Mrs. Godfrey at her house in Sennett. He enters the house—deaf—and stands mute. "I gave him a chair," says Mrs. Godfrey, "he sat down. I asked which way he was traveling. He wanted to know if that was the place where a woman had a horse stole, 5 years before. I told him it was. He said he had been to Prison for stealing the horse, and he didn't steal it neither. I told him I knew nothing about that, whether it was he, or not. He said he'd been to Prison for stealing a horse, and didn't steal it, and he wanted a settlement. Johnson, who was there, asked him if he should know the horse if he should see it. 'No.' 'Do you want the horse?' 'No. Are you the man who took me up? Where is the man who kept the tavern across the way, and helped catch me?' 'He is gone.' I asked him if he was hungry. He said, didn't know but he was. I gave him some cakes, and he sat and ate them."

Here is exhibited at once the wildness of the maniac, and the imbecility of the demented man. His delusion is opposed to "the sense and judgment of all mankind." Mrs. Godfrey and Mr. Johnson exposed its fallacy. But still the one idea remained, unconquered, and unconquerable. The maniac who came to demand pay for five years' unjust imprisonment, is appeased with a morsel of cake.

He was next seen at Mr. Seward's office, a week or ten days before the murder. He asked if this was "Squire's office, and said he wanted a war-

rant. Mr. Parsons, the clerk, says: "I didn't understand, until he had asked once or twice. I asked him what he wanted a warrant for. He said, for the man who had been getting him into Prison, and he wanted to get damages. I told him the Justices' offices were up street, and he went away."

Next we find him at the office of Lyman Paine, Esq., Justice, on the Saturday preceding the death of Van Nest.

Mr. Paine says: "He opened the door, came in a few feet, and stood for nearly a minute with his head down, so. He looked up and said: 'Sir, I want a warrant.' 'What for?' He stood a little time, and then said again: 'Sir, I want a warrant.' 'What do you want a warrant for?' He stood a minute, started and came up close to me, and spoke very loud: 'Sir, I want a warrant. I am very deaf, and can't hear very well.' I asked him in a louder voice, what he wanted a warrant for. 'For a man who put me to State Prison.' 'What is your name?' 'William Freeman; and I want a warrant, for the man who put me to Prison.' I said: 'If you've been to Prison, you have undoubtedly been tried for some offence.' 'I have; I was for stealing a horse, but I didn't steal it. I've been there five years.' 'I asked who he wanted a warrant for. He told me some name—I think it was Mr. Doty. [You will remember, gentlemen, that Mr. Doty, Mr. Hall, and Mrs. Godfrey, all of Sennett, and Jack Furman, of this town, were the witnesses against him.] I told him if he wanted a warrant, it must be for perjury—he must give me the facts, and I would see. 'He stood two or three minutes and then said: 'Sir, I want a warrant.' I asked further information. He stood a little while longer, took out a quarter dollar, threw it on the table, and said, 'Sir, I demand a warrant'—appeared in a passion, and soon after went out. 'He returned in the afternoon—said he would have a warrant—and gave the names of Mr. Doty and Mrs. Godfrey."

Mr. Paine saw in all this, evidence of only stupidity, ignorance and malice, but not of insanity. But, Gentlemen, if he could have looked back to the origin of the prisoner's infatuation, and forward to the dreadful catastrophe on the shore of the Owasco Lake, as we now see it, who can doubt that he would then have pronounced the prisoner a maniac, and *granted*, not the warrant he asked, but an order for his commitment to the County Jail, or to the Lunatic Asylum?

Denied the process to which he thought himself entitled, he proceeded a day or two later to the office of J. H. Bostwick Esq., another Justice. I saw him, says this witness, a day or two before the murder. He came and said he wanted a warrant. I asked for whom, he replied "for those that got me to Prison. I was sent wrongfully. I want pay." I asked him who the persons were. He mentioned a widow and two men. He mentioned Mrs. Godfrey as the widow woman, Jack Furman and David W. Simpson as the two men. (Simpson was the constable by whom he was arrested the second time for stealing the horse.) Mr. Bostwick declined issuing the warrant, and informed him there was no remedy, and again expounded to him the "sense and judgment of all mankind," in opposition to his delusion.

ning to the testimony of John Depuy, soner was agitated by alternate hope and in regard to his redress. At one time Depuy, that he'd got it all fixed, and him to go down to the Justice's office that he was paid right. At another, he says that the "Squires wouldn't do nothing about it; that he could get no warrant, nor id he couldn't live so" n it was that the one idea completely overwhat remained of mind, conscience and . If you believe Hersey, Freeman, about before the murder, showed him several knives which he had—told him he meant Depuy, his brother-in-law, for trivial rea which he assigned, and said that he had the folks that put him in Prison, and to kill them. Hersey says: "I asked ho they were. He said, *'they were Mr. Test,*" and said no more about them. He say where they lived, and nothing about her man, woman, or widow." This wit admits that he suppressed this fact on the inary examination.

You reject this testimony, then there is no ice that he ever had any forethought of g Van Nest. If you receive it, it proves mplete subversion of his understanding; hn G. Van Nest, and all the persons slain, d not in Senneit, nor in Auburn, but four south of the latter place, and eight miles the house of Mrs. Godfrey. The prisoner, a week before the crime, named to the mates every person who was concerned in revious conviction. We have shown that er John G. Van Nest, nor any of his fami-kindred, nor any person connected with was, or could have been, a party, a magis-a witness, a constable, a sheriff, a grand attorney, petit juror, or judge in that cution, or ever knew or heard of the proseci, or ever heard or knewthat any such lar-had been committed, or that such a being e prisoner existed. Mrs. Godfrey and the sses on the former occasion, became known remaining family and relatives of Van here in court, for the first time, during trials.

u will remember that Erskine's test of a ion that takes away responsibility is—that iminal act must be the immediate, unqualified ing of the delusion. I shall now proceed to , that such is the fact in the present case. e first witness to whom the prisoner spoke rning the deeds which he had committed George B. Parker. This was at Phenix, go county, immediately after his arrest, n twenty hours after the perpetration of rime. "I pushed very hard for the rea," says the witness; what he had against Nest. "I suppose you know I've been in State in five years," he replied. "I was put there tently. I've been whipped and knocked abused, and made deaf, there wont any pay me for it."

underheyden arrived soon afterwards. He d the prisoner aside, and said to him: w we're alone, and you may as well tell now you came to commit this." He says to "You know there is no law for me." "I d him what he meant by that, no law. He

"THEY OUGHT TO PAY ME."

han A. Warden followed him into his cell

in the jail, and asked him, "When you started from home what did you go up there for?" "I must go." "Why must you go?" "I must begin my work." "What made you do it?" "They brought me np so." "Who brought you up so?" "The State." "They didn't tell you to kill, did they?" "Don't know—no'nt pay me." "Did you know these folks before you went to Prison?" "No." "Was you there a few days before to get work?" "Yes." "Did they say any thing to offend you or make you angry?" "No." "What made you kill them; what did you do it for?" "I must begin my work." "Did'nt you expect to be killed?" "Did nt know but I should." "If you expected to be killed what made you go; did you go to get money?" "No." "Did you expect to get money?" "No." "Did you intend to get the horse?" "No." "How did you come to take him?" "Broke my things, (meaning knives)—hand was cut—came into my mind—take the horse—go—and—get so—could do more work." "If you had not broke your things, what would you have done?" "Kept to work." "Did you mean to keep right on?" "I meant to keep to work." "Would you have killed me if you had met me?" "Supse I should." "What made you begin at that house?" "Stopped two or three places, thought it was'nt far out enough to begin." "Are you not sorry you killed so many?" "Don't think any thing about it."

The prisoner has invariably given similar answers to every person who has asked him the motive for his crime.

Warren T. Worden says, "I asked him why he took the horse?" He answered, "My hand was hurt, and I could'nt kill any more." "I asked him why he killed them? and he answered," "Why did they send me to State Prison, when I was'nt guilty?" And in making this reply he trembled, and I thought he was going to weep. I told him they would hang him now; he showed no feeling."

Dr. Fosgate says that Dr. Hurd asked him what be killed those folks for? He replied, "They put me in Prison."

John R. Hopkins says, "I turned his attention to the idea of pay—if he had got his pay for his time in Prison? That question raised him up and he looked comparatively intelligent, brightened up his whole countenance." He said, "No." "Who ought to pay you?" "All of them." "Ought I?" He looked up with a flash of intelligence, said nothing, but looked intently at me, and the answer was conveyed by the look. I asked if this man, (pointing to Hotchkiss) ought to pay him? He looked at him as at me and said, "Do what's right" or "we'll do what's right." We then spoke about his trial, and he was stupid and dull again."

Rev. J. M. Austin, says: "I put questions to find his motive for killing that family. His answers were very broken and incoherent, but invariably referred to his being in prison innocently." "Had the persons you killed, anything to do with putting you into prison?" "No." "Did you know their names?" "No?" "Why did you kill that particular family?" No direct answer, but something about being put in prison wrongfully. "Do you think it right to kill people who had no hand in putting you in prison?" He gave an incoherent reply. I gained, "shall do something to get my pay." "How

much pay ought you to have?" "Don't know." "Was it right to kill those innocent persons for what had been done by others?" "They put me in prison." "Who did—the Van Nest family?" "No." "Why then did you kill them?" Did you think it right to kill that innocent child?" I understood from his gestures in reply, that he was in a labyrinth, from which he was incapable of extricating himself. "How did you happen to go that particular night?" "The time had come." "Why did you enter that particular house?" "I went along out, and thought I might begin there." I asked if he ever called on Mrs. Godfrey? He said, "I went to Mrs. Godfrey to get pay, and she wouldn't pay me. I went to Esqr. Bostwick and Paine and they wouldn't do nothing about it."

Mr. Ira Curtis says: I asked him how he came up there. "I went up south a piece." "How far?" "Stopped at the house beyond there." "What for?" "To get a drink of water." "What did you go into Van Nest's house for?" "Don't know." "Did you go in to murder or kill them?" "Don't know." "Was it for money?" "Didn't know as they had any." "Did you kill the child?" "They said I killed one, but I didn't." "What did you kill them for?" "You know I had my work to do." "Had you any thing against these people?" "Don't know." "Why didn't you commence at the other place?" "Thought it wasn't time yet." He said, "they wouldn't pay him. He had been imprisoned and they wouldn't pay him."

Dr. Hermance says: "Dr. Pitney asked him, how he happened to go up?" "It rained and I thought it would be a good time." "Why did you go to Van Nest's, and not to some other family?" No answer. "Why didn't you come and kill me?" He smiled but gave no answer. "Don't you think you ought to be hung for killing Van Nest and his family?" The same question was repeated authoritatively and he replied: "Sent to prison for nothing—ought I to be hung?" "Suppose you had found some other person, would you have killed any other as well as Van Nest?" "Yes." I asked, "why did you kill Van Nest and his family?" "For that horse." "What do you mean by killing, for that horse?" "They sent me to Prison and they wo'n't pay me." "Had Van Nest any thing to do with sending you to prison?" "No."

"Dr. Briggs, says: "When I repeated the question, 'Why did you kill Van Nest?' he replied," "Why was I put in prison five years?" "William P. Smith, asked: "Why did you kill those people?" "I've been to Prison wrongfully, five years. They wouldn't pay me." "Who?" "The people, so I thought I'd kill somebody." "Did you mean to kill one, more than an other?" "No." "Why did you go so far out of town?" "Stopped at one place this side—couldn't go in, couldn't see to fight, 'twas dark—looked up street, saw a light in next house, thought I'd go there—could see to fight." "Don't you know you've done wrong?" "No." "Don't you think 'twas wrong to kill the child?" After some hesitation, he said, "Well—that looks kind o' h-a-r-d." "Why did you think it was right?" "I've been in prison five years for stealing a horse, and I didn't do it; and the people won't pay me—made up my mind—ought to kill somebody." "Are you not sorry?" "No." "How much pay do you want?" "Don't know—good deal." "If I

count you out a hundred dollars, would that be enough? he thought it wouldn't. "How much would be right?" "Don't know"—brightened up and finally said he thought "about a thousand dollars would be about right."

It would be tedious to gather all the evidence of similar import. Let it suffice, that the witnesses, who have conversed with the prisoner, as well those for the people as for him, concur fully in the same statement of facts, as to the reasons and motives for the murders. We have thus established, not merely the existence of an insane delusion, but have traced directly to that overpowering delusion, the crimes which the prisoner has committed.

How powerful that delusion must have been, may be inferred from the fact, that the prisoner when disabled, desisted from his work, and made his retreat to his friends in Oswego county, not to escape from punishment, for the murders; but, as he told Mr. E. A. Warden, to wait till his wounded hand should be restored, that he might resume his dreadful butchery: and, as he told Dr. Bigelow, he desisted because he couldn't "handle his hand." The intensity of the delusion, exceeds that under which Battfield assailed the King—or that which compelled Henriette Cornier to disserve the head of the child entrusted to her care—or the delusion of Rabello, the Portuguese, who cut to pieces with his axe, the child who trod upon his feet.

Gentlemen of the Jury, the next feature in the cause, which will claim your attention, is the MANNER AND CIRCUMSTANCES OF THE ACT ITSELF.

In Ray's Medical Jurisprudence, p. 224, are given several tests by which to distinguish between the homicidal maniac and the murderer.

We shall best consider the present case by comparing it with those tests.

I. "There is the *irresistible motiveless impulse to destroy life.*" Never was homicide more motiveless, or the impulse more completely irresistible, than in the present case, as we have learned from the testimony already cited.

II. "In nearly all cases the criminal act has been preceded, either by some well marked disturbance of the health, or by an irritable, gloomy, dejected or melancholy state; in short, by many of the symptoms of the incubation of mania." How truly does this language describe the condition of the prisoner during the brief period of his enlargement!

III. "The impulse to destroy is powerfully excited by the sight of murderous weapons—by favorable opportunities of accomplishing the act, by contradiction, disgust, or some other equally trivial and even imaginary circumstance."

While we learn from Hersey's testimony that the prisoner kept a store of knives fit for such a deed, we find in the denial of his demand for settlement, for pay, and for process, by Mrs. Godfrey and the magistrates, the contradictions and causes of disgust here described.

IV. "The victims of the homicidal monomaniac are either entirely unknown or indifferent to him, or they are amongst his most loved and cherished objects."

Freeman passed by his supposed oppressors and persecutors, and fell upon a family absolutely indifferent to him, while he reserved the final stroke for his nearest and best friend, and brother-in-law.

"The monomaniac sometimes diligently as and sometimes avows his purpose, and schemes for putting it into execution, testing no sentiment of grief."

prisoner concealed his purpose from all Jersey. He purchased the knife which he in open day, at a blacksmith's shop in the ice of persons to whom he was well known, round it to its double edge in the presence unsuspecting witnesses, as coolly and deliberately as if it were to be employed in the shambles. He applied at another blacksmith's shop, he was equally well known, to have an instrument made. He shaped the pattern carpenter's shop, carried it to the smith, paid about the price, and left the pattern, the forge in open sight, never thinking to aim it, and it lay there until it was taken by the coroner's inquest, as an ice of his design. So strange was his act, and so mysterious the form of the which he required, that Morris the smith, stared him, and told him that he was going *somebody*; to which he answered with the alacrity of the butcher, "*that's nothing to you get your pay for the knife.*" On the days immediately preceding the murder, he id sharpening and adjusting his knives at his shop, next door to his own dwelling, presence of persons to whom he is well known, manifesting no apprehension, and affecto concealment.

trivial concerns of his finance and occupation as carefully attended to as if the he was contemplating, had been an ordinary and lawful transaction. Hyatt demanded shillings for the knife. The prisoner waits until the price is reduced to eighteen with the further advantages that it should be sharpened, and fitted to a handle. Hyatt demands six pence for putting a rivet into his

He compromises and agrees to divide the and pay half the price. He deliberately opens out his wallet and lays down three cents upon the turner, for the use of the grinder.

On the very day of the murder he begs grease at the Soap Factory to soften his and tells Aaron Demun that he is going he country to live in peace. At four in the afternoon he buys soap at the marts for Mary Ann Newark, the poor woman whose house he lived. He then goes cautiously room, takes the knives from the place of concealment under his bed, throws them the window, to avoid exposure to her ob-  
servation, and when the night has come and the ringing for church and all is ready, goes to ask the woman whether there is *here* to be done? She tells him none, fill the tub with snow. He does it, as if there were no commotion in his and then sallies forth, takes up his instru-

and proceeds on his errand of death. Reconnoiters the house on the North of West's, Van Nest's house and Brooks' on the South—and finally decides upon Middle one as the place of assault. It matters that he meets under a broad bright light, Mr. Cox and Mr. Patten. He waits posturously, until Williamson the visitor, parted, and Van Arsdale the laboring has retired to rest. With an energy and *pass* that no sane man could possess with

such a purpose, he mortally stabs four persons and dangerously wounds the fifth, in the incredibly short space of five minutes. Disabled and therefore desisting from further destruction, he enters the stable, takes the first horse he finds, mounts him without a saddle, and guiding him by a halter, dashes towards the town. He overtakes and passes Williamson the visitor, within a distance of three-fourths of a mile of the house which he had left in supposed security. Pressing on, the jaded beast worn out with age, stumbles and brings him to the ground. He plunges his knife into the breast of the horse, abandons him, scours forward through the town, across the bridge and on the middle road to Burrington's; there seizes another horse, mounts him, and urges forward, until he arrives among his relations, the Depuys, at Schröppel, thirty miles distant. They, suspecting him to have stolen the horse, refuse to entertain him. He proceeds to the adjoining village, resists from his flight—offers the horse for sale, and when his title to the horse is questioned, announces his true name and residence, and refers to the Depuys who had just cast him off, for proof of his good character and conduct. When arrested and charged with the murder, he denies the act.

Now the *sixth* test given by Ray is that "while most maniacs having gratified their propensity to kill, voluntarily confess the act, and quietly give themselves up to the proper authorities, a very few only, and those to an intelligent observer show the strongest indications of insanity, fly, and persist in denying the act."

Again, *seventhly*. "Murder is never criminally committed without some *motive* adequate to the purpose in the mind that is actuated by it, while the insane man commits the crime without any motive whatever, strictly deserving the name."

*EIGHTLY.* "The *criminal*, never sheds more blood than is necessary for the attainment of his object. The *monomaniac* often sacrifices all within his reach, to the cravings of his murderous propensity."

*NINTHLY.* "The *criminal* either denies or confesses his guilt; if the latter he sues for mercy, or glories in his crimes. On the contrary, the *maniac*, after gratifying his bloody desires, testifies neither remorse, repentance, nor satisfaction."

*TENTHLY.* "The *criminal*, has accomplices, the *maniac* has none."

*ELEVENTHLY.* "The murderer never conceives a design to murder, without projecting a plan for concealing his victim, effecting his escape, and baffling pursuit. The maniac prepares the means of committing the crime with calmness and deliberation, but never dreams of the necessity of concealing it when done, or of escape, until his victim lies at his feet."

Not only Dr. Bigelow, but some other witnesses, states that the prisoner told them, as obviously was the case, that he sought no plunder, that he thought not of escape or flight, until his *things* were broke, and his hand was cut, so he could n't continue his work. He seized the nearest and the most worthless horse in the stable, leaving two fleet animals remaining in the stalls. He thought only of taking Burrington's horse, when the first failed—all he cared for was to get out of the County, there to rest until his hand

was cured, so that he could come back and do more work. He rested from flight within thirty miles from the scene of his crimes, and in selling his horse, was depriving himself of the only means of making his escape successful. When the person of Van Nest, was examined, his watch, pocket book, money, and trinkets were found all undisturbed. Not an article in the house had been removed, and when the prisoner was searched upon his arrest, there was found in his pockets nothing but one copper coin, the one hundredth part of a dollar.

Without further detail, the parallel between the conduct of the prisoner, and the tests of madness established by Medical Jurisprudence, is complete.

It remains, Gentlemen, to conclude the demonstration of the prisoner's insanity, by referring to the testimony of the witnesses who have given their opinions on that question. Cornelius Van Arsdale and Helen Holmes the survivors of the dreadful scene at Van New's house, did not think the prisoner insane. The latter had only seen him for a moment during the previous week, when he called there and asked for work. The former had never seen him before that fatal night. Both saw him there, only for a moment, and in circumstances exhibiting him as a ruthless murderer.

Williamson thinks he was not insane, but he saw the prisoner only when he swept past him, fleeing from his crime.

James Amos, Alonzo Taylor, George Burrington, and George B. Parker, say they read no indications of insanity in his conduct when arrested; but neither of them ever saw him before or has seen him since.

Robert Simpson, the turner, Geo. W. Hyatt and Joseph Morris, the blacksmiths, did not suspect him to be insane, when he purchased and sharpened his knives. Neither of them ever knew him before, or since.

Nathaniel Lynch, though he furnishes abundant evidence of the prisoner's insanity, is himself unconvinced.

Aaron Demun, a colored man, does not think him insane, but stands alone, of all who knew him in his youth.

Israel G. Wood and Stephen S. Austin do not think him insane. They were his jailors six years ago, but they have not examined him since his arrest.

Vanderheyden and Monroe think him sane, but each testifies under feelings which disqualify him for impartiality.

Jonas Brown thinks him not insane, but never saw him except when he was buying a pound of soap at his store.

John P. Hulbert and B. F. Hall had brief conversations with him in the jail since his arrest, but made no examination concerning his delusion.

Lewis Markham and Daniel Andrus think him not insane, but they have made no examination of the subject; while both give evidence that he once was as bright, as active, and as cheerful, as he is now stupid, senseless, and imbecile.

Benj. Vankeuren, Aretas A. Sabin, Silas E. Baker, James E. Tyler, all keepers in the State Prison, and Alonzo Wood, the Chaplain, did not suspect him of insanity in the State Prison. Their conduct towards him while there, proves

their sincerity; but his history under their treatment, will enable you to correct their erroneous judgments. It was their business there, not to detect and cure insanity, but to prescribe his daily task and to compel him in silence and with stripes to perform it.

Michael S. Myers, the former District Attorney, who prosecuted the prisoner for stealing the horse, looks at him now, but can see no change in his personal appearance: but he has never thought the subject worthy of an examination, and has not in six years spoken with, or thought of the accused.

Lyman Paine and James H. Bostwick, to whom he applied for process, continue now as well convinced of the prisoner's sanity, as they were when he applied to them for warrants which it was absurd for him to ask. Neither of them has examined him since his arrest, or stopped to compare his conduct in the murder with his application for warrant, or with the strange delusion which brought him before them.

Such and so feeble is the testimony given by others than medical witnesses of the prisoner's sanity. Nor is the testimony of the medical witnesses on the part of the People entitled to more respect.

Dr. Gilmore pronounces a confident opinion that the prisoner is sane; but the witness is without experience or any considerable learning on that subject, and his whole opinion is grounded upon the fact, that the accused had intellect enough to prepare for his crime and sense enough to make his escape, in the manner so often described. I read to the Doctor the accounts of several cases in Bedlam, and without exception he pronounced the sufferers, sane criminals.

Dr. Hyde visited the prisoner twice in his cell, perhaps thirty minutes each time, and as the result of those visits, says he was rather of opinion that he was sane. Dr. Hyde expressly disavows any learning or experience on the subject of insanity, and does not give the details of his examination.

Dr. David Dimon visited the prisoner several times in jail, but could not discover any thing that he could call insanity. He thinks there can be no insane delusion in this case, because he thinks an insane delusion is the thorough conviction of the reality of a thing, which is opposed by the evidence of the sufferer's senses. The Doctor claims neither study nor experience; pronounces the prisoner to be of a grade of intellect rather small for a negro; thinks he has not as much intellect as a child of 14 years of age, and in regard to knowledge, would compare him with a child 2 or 3 years old, who knows his A. B. C., but cannot count 28. Those who seek the extreme vengeance of the Law, if successful, will need all the consolation to be derived from the sanity of the accused, if, at the age of 23, he be thus imbecile in mind and barren in knowledge.

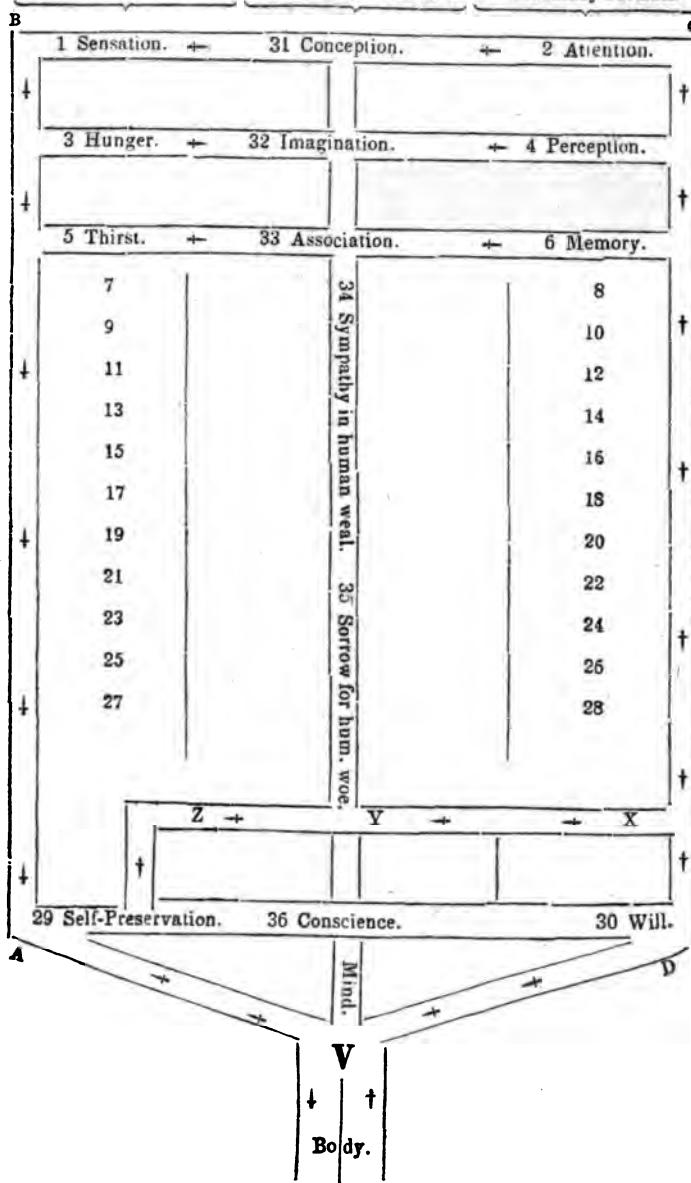
Dr. Jedediah Darrow has read nothing on the subject of insanity for 40 years, and never had any experience. He declares that his conclusion is not to be regarded as a *professional* opinion. He talked with the prisoner once in jail to ascertain his sanity, and thought it important to avoid all allusion to the crimes he had committed, their motives, cause and circumstances. He now thinks that it would have been wise, where mo-



**The Brain, Little Brain, Spinal Marrow, and Nerves,**  
*Are the Instruments or Media connecting the Mind with Material Things, and are the seat of Disease in Insanity.*

**THREE CLASSES—THIRTY-SIX FACULTIES**

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## EXPLANATIONS.

EXPLANATIONS.	
7	Love of society.
9	children.
11	money.
13	combat.
15	fame.
17	Nature's laws.
19	Divine things.
21	Revenge.
23	Anger.
25	Joy, Hope.
27	Fear.
V	Uncertained centre of Thought, Sense- tion and Volition.
X Y Z	Dreaming or Insane road of Thought around Concealments and W <sup>1</sup> ll.
8	Understanding.
10	Comparison.
12	Combination.
14	Reason.
16	Invention.
18	Judgment.
20	Sense of Justice.
22	Pleasure in right.
24	Horror of wrong acts.
26	Intention, co-ordination.
28	Other volitions, mental and moral.
V A B C D	Union of all the Mental Facul- ties, as if by Electric Wires, as one whole.

a was suspected, to examine into the allusion. He contents himself with saying did not *discover insanity*.

Joseph L. Clary visited the prisoner in and not give a decided opinion; his pre-impression is that the prisoner is not insane; he has not had opportunities enough a correct *opinion*. He has never seen a Dementia, and knows it only from description in books, which he has never tested.

Bigelow, Physician in the Prison, has red nothing in his examinations which to suspect insanity. The Doctor has a of \$500 per annum; his chief labor in to insanity is to detect counterfeits in the; and although he admits that the prisoner answered him freely, and unsuspecting- fully, he accounts for the condition of id, by saying that he regards him "as an dull, stupid, degraded, debased and most not insane person."

Sylvester Willard, without particular ex- e or learning in this branch, concurs in opinions.

THOMAS C. SPENCER, M. D., Professor in Geneva, brings up the rear of the Pe- tinesses. I complain of his testimony, was covered by a masked battery. The Attorney opened the cause with denun- s of scientific men; said that too much g made men mad, and warned you there- ainst the educated men who might tes- ihe prisoner. I thought at the time that vere extraordinary opinions. I had read

A little learning is a dangerous thing,  
Drink deep or taste not the Pierian Spring;  
These shallow draughts intoxicate the brain,  
But drinking largely sobers us again."

it was my surprise to find that all these cations against learning and experience, by the Counsel for the People, were only r for Dr. Spencer.

eralds himself as accustomed to teach, informs us that he has visited the principal hospitals for the Insane in London, Paris, and European capitals. How unfortunate that on his cross-examination, he could not ie name or location of any Asylum in ei- those cities; even the names and loca- f the "Charenton" and "Bicetre," had d his memory.

it is no matter. The Doctor overwhelms h learning, universal and incomprehensi- Here is his map of the mental faculties, in 28 separate powers of mind are described and even numbers.

arrows show the course of ideas through nd. They begin with the motives in the of the highest odd numbers in the south corner of the mind, marked A. and go up idicularly northward, through Thirst and er to Sensation, marked B; then turn to ht about face and go down east, through ption, Attention and Imagination to Per- , Marked C. and then descend due south, h the "Understanding," "Comparison," bination," "Reason" and "Judgment," to the left under the "Will," marked D, iss through Conscience, and then to V. the retained centre of Sensation, Volition and

This is the natural turnpike road for the when we are awake and sane. But here on the east line of the mind, is an open

shun-pike X. Y. Z., on which Ideas, when we are asleep or insane, start off and pass by Conscience and so avoid paying toll to that gate keeper. Now all this is very well, but I called on the Doctor to show how the fugitive idea reached the Will at D., after going to the end of the shun- pike. It appear'd there was no other way but to dart back again over the shun-pike or else to go at last cringing through the Irongate of Con- science.

Then there was another difficulty. The Doc- tor forgot the most important point on his own map, and could not tell from memory, where he had located "the unascertained centre."

The Doctor pronounces the Prisoner sane be- cause he had the chief intellectual faculties, "Sensation," "Conception," "Attention," "Im- agination" and "Association." Now here is a delicate piece of wooden cutlery, fabricated by an inmate of the Lunatic Asylum at Utica, who was acquitted of murder on the ground of Insanity. He who fabricated it evinced in the man- ufacture, "Conception," "Perception," "Mem- ory," "Comparison," "Attention," "Adap- tation," "Co-ordination," "Kindness," "Grati- tude," "Mechanical skill," "Invention," and "Pride." It is well for him that Dr. Spencer did not testify on his trial.

Opposed to these vague and un-satisfactory opinions is the evidence of Sally Freeman the Prisoner's mother, who knew him better than any other one; John De Puy his brother in law and intimate friend; Ethan A. Warden, his em- ployer in early y uth; Deborah DePuy, his as- sociate in happier days; Adam Gray, who knew him in childhood and sheltered him on his dis- charge from the State Prison; Ira Curtis, in whose family he resided seven years ago; Da- vid Winner, the friend of his parents; Rob- ert Freeman his ancient fellow servant at the American Hotel; John R. Hopkins an intelligent and practical man who examined him in the Jail; Theron R. Green who discovered his insanity in the State Prison; Rev. John M. Austin, the one good Samaritan who deemed it a pastoral duty to visit even a supposed murderer in Prison; Wm. P. Smith, who has corrected now the error of his judgment when in the State Prison; Philo H. Perry, a candid and enlightened observer and Warren T. Worden, Esquire, a Lawyer of great shrewdness and sagacity.

Then there is an overwhelming preponder- ance of medical testimony. The witnesses are, Dr. Van Epps, who has followed the accused from his cradle to the present hour with the interest of a humane and sincere friend; Dr. Fos- gate, who attended him in the jail, for the cure of his disabled limb; Dr. Briggs, equal in pub- lic honors to Dr. Bigelow and greatly his superi- or in candor as well as learning, and who com- pared the prisoner now with what he was in bet- ter days; Dr. McNaughton of Albany, Dr. Hun of the same place, gentlemen known throughout the whole country for eminence in their Profes- sion; Dr. McCall of Utica, President of the Med- ical Society of the State of New York; Dr. Cov- entry, Professor of Medical Jurisprudence in Ge- neva College and one of the Managers of the State Lunatic Asylum at Utica, and Dr. Brig- ham the experienced and distinguished Superin- tendant of that Institution. This last gentleman, after reviewing the whole case, declares that he has no doubt but that the prisoner is now insane.

and was so when his crimes were committed ; that he should have received him as a patient, then on the evidence given here independently of the crime, and should now receive him upon all the evidence which has been submitted to you.

Dr. Brigham pronounces the Prisoner to be a *Monomaniac*, laboring under the overwhelming progress of the delusion I have described, which had its paroxysm in the murders of which the prisoner is accused ; and declares that since that time he has sunk into a deep and incurable *Dementia* the counterpart of Idiocy. In these opinions and in the reasons for them so luminously assigned by him, all the other Medical Gentlemen concur.

Gentlemen, you may be told that Dr. Hun and Dr. McNaughton testified from mere observation of the prisoner without personal examination. Yes ! I will thank the Attorney General for saying so. It will recall the strangest passages of all, in this the strangest of all trials. This is a trial for MURDER. A verdict of guilty will draw after it a sentence of DEATH. The only defense is Insanity. Insanity is to be tested by examining the prisoner as he *now* is, and comparing him with what he was when the crime was committed and during all the intervening period and through all his previous life. Dr. Hun and Dr. McNaughton were served with subpoenas, requiring them to attend here. They came, proceeded to the jail, and examined the prisoner on Wednesday night during the trial. Early on Thursday morning they proceeded again to the jail to resume their examination, and were then denied access to the prisoner. It is proved that the Attorney General instructed the Sheriff to close the doors against them, and the Attorney General admits it. Dr. Hun and Dr. McNaughton are called to testify and are ready to testify that the examination they did make, satisfied them that the prisoner is insane, and that he was insane when he committed the homicide. The Attorney General objects and the court overrule the evidence, and decide that these eminent physicians shall testify only from mere external observation of the prisoner, in court, and expressly forget and lay aside their examination of the prisoner made in jail by conversation with him. Nor was the process by which the court effected this exclusion less remarkable than the decision itself. The court had obtained a verdict on the 6th of July on the preliminary issue, "that the prisoner was sufficiently sane to distinguish right from wrong." That verdict has been neither *pledged* nor *proved* in this cause, and if it had been, would have been of no legal value. Yet the Court found upon it a Judicial Statute of Limitations, and deny us all opportunity to prove the prisoner insane after the 6th of July. I tremble for the jury that is to respond to the popular clamor under such restraints as these. I pray God that these Judges may never experience the consequences which must follow such an adjudication. But, gentlemen, Dr. Hun and Dr. McNaughton bear the strongest testimony nevertheless, that the prisoner is an *idiot* as appears by observation, and that the testimony as submitted to them confirms this conviction.

Gentlemen, there is proof stronger than all this. It is silent, yet speaking. It is that *idiotic*

smile which plays continually on the maniac. It took its seat there while in the State Prison. In his solitary under the pressure of his severe tasks in the work shop, and in the chapel during solemnities of public worship, it appeared though in vain, to his task masters and his. It is a smile never rising into a without motive or cause—the smile of a. His mother saw it when he came out of and it broke her heart. John De Puy saw knew his brother was demented. Debo Puy observed it and knew him for a foolish Winner read it in the ruin of his family's son. It has never forsaken him in trials. He laughed in the face of Parke on confession at Baldwinsville. He involuntarily in the faces of Warden and and Worden, and Austin, and Bigelow Smith, and Brigham, and Spencer. He perpetually here. Even when Van showed the scarred traces of the assassin and when Helen Holmes related the story of the murder of her patrons and he laughed. He laughs when I am p his griefs. He laughs when the Attorney's bolts would seem to rive his heart will laugh when you declare him guilty. The Judge shall proceed to the last fatal day, and demand what he has to say v Sentence of the Law should not be pronounced upon him, although there should not be moistened eye in this vast assembly, a stern voice addressing him should tremble emotion, he will even then look up in the of the court and laugh, from the irre emotions of a shattered mind, delight lost in the confused memory of absurd ridiculous associations. Follow him to the fold. The executioner cannot disturb the of the idiot. He will laugh in the of death. Do you not know the significance of this strange and unnatural risibility ? proof that God does not forsake even the wretch whom we pity or despise. Then every human memory a well of joys and a chain of sorrows. Disease opens wide and seals up the other forever.

Gentlemen, you have been told that this is hereditary and accustomed. Do you that ever ancestor or parent or even the idiot himself was in such straits as these, then can you think that the smile was ever recognized by the willing witnesses to him. That chaotic smile is the external arrangement which signifies that the strings Harp are disordered and broken, the social mark which God has set upon the table to signify that the immortal tenant is bed by a divine and mysterious command. If you cannot see it, take heed that the object of your vision be not produced by the eye which you are commanded to before you consider the beam in your eye. If you are bent on rejecting the of those who know by experience and hence the deep affliction of the Prisoner, how you misinterpret the handwriting of mighty.

Gentlemen, I have waited until now to some animadversions of the Counsel for the people. They say that drunkenness will

the conduct of the prisoner. It is true that John DePuy discovered that those who retailed poisonous liquors were furnishing the prisoner with this the worst of food for his madness. But the most laborious investigation has resulted in showing by the testimony of Adam Gray that he once saw the prisoner intoxicated, and that he with some other person drank spirits in not immoderate quantity on the day when Van Nest was slain. There is no other evidence that the Prisoner was ever intoxicated. John DePuy and Adam Gray testify that except that one time he always was sober. David Winner proves he was sober all the time the witness lived at Willard's, and Mary Ann Newark says he was entirely sober when he sallied forth on his fatal enterprise. The only value of the fact of his drunkenness if it existed would be to account for his disturbed nights at DePuy's, at Gray's, and at Willard's. It is clearly proved that his mind was not beclouded nor his frame excited by any such cause on any of those occasions; and Dr. Brigham truly tells you, that while the maniac goes quietly to his bed and is driven from it by the dreams of a disturbed imagination, the drunkard completes his revels and his orgies before he sinks to rest and then lies stupid and benumbed until nature restores the wasted energies with return of day.

Several of the Prisoner's witnesses have fallen under the displeasure of the Counsel for the People. John DePuy was asked on the trial of the preliminary issue, whether he had not said when the prisoner was arrested, that he was no more crazy than himself. He answered, that he had not said "in those words," and asked leave to explain by stating what he had said. The Court denied him the right and obliged him to answer, Yes or No. And of course he answered No. On this trial he makes the explanation, that after the murder of Van Nest, being informed that the prisoner had threatened his life he said, "Bill would do well enough if they wouldn't give him liquor, he was bad enough at any time, and liquor made him worse." By a forced construction this declaration, which substantially agrees with what he is proved by other witnesses to have said, is brought in conflict with his narrow denial, made on the former trial. It has been intimated on this trial, that the Counsel for the Prosecution would contend that John DePuy was an accomplice of the Prisoner and the instigator of his crimes—a cruel and unfeeling charge. It has no ground even in imagination, except that twelve years ago DePuy labored for six weeks on the farm of the late Mr. Van Nest, then belonging to his Father-in-Law, Peter Wyckoff, that a misunderstanding arose between them, which they adjusted by arbitration and that they were friends always afterwards. The elder Mr. Wyckoff died six years ago. It does not appear that the late Mr. Van Nest was even married at that time. John DePuy is a colored man, of vigorous frame, and strong mind, with good education. His testimony, conclusive in this cause, was intelligently given. He claims your respect as a representative of his people, rising to that equality to which it is the tendency of our institutions to bring them. I have heard the greatest of American Orators. I have heard Daniel O'Connell and Sir Robert Peel but I heard John DePuy make a speech excelling them all in eloquence.

"They have made William Freeman what he is, a brute beast; they don't make any thing else of any of our People but brute beasts; but when we violate their laws, then they want to punish us as if we were men." I hope the Attorney General may press his charge; I like to see persecution carried to such a length; for the iron-gentle bow, when bent too far will break.

Deborah Depuy is also assailed as unworthy of credit. She calls herself the wife of Hiram Depuy with whom she has lived, ostensibly in that relation for seven years, in, I believe, unquestioned fidelity, to him and her children. But it appears that she has not been married with the proper legal solemnities. If she were a white woman, I should regard her testimony with caution, but the securities of marriage are denied to the African race, over more than half of this country. It is within our own memory that the master's cupidity could divorce husband and wife within this state, and sell their children into perpetual bondage. Since the act of Emancipation here, what has been done by the white man to lift up the race from the debasement into which he had plunged it. Let us impart to negroes the knowledge and the spirit of Christianity, and share with them the privileges, dignity and hopes of citizens and Christians before we expect of them purity and self respect.

But, Gentlemen, even in a slave state the testimony of this witness would receive credit in such a cause, for negroes may be witnesses there for and against persons of their own cast. It is only when the life, liberty or property of the white man is invaded, that the negro is discredited. Let us not be too severe. There was once upon the earth a Divine Teacher who shall come again to judge the world in righteousness. They brought to him a woman taken in adultery, and said to him that the law of Moses directed that such should be stoned to death, and he answered: "Let him that is without sin cast the first stone."

The testimony of Sally Freeman, the mother of the prisoner, is questioned. She utters the voice of NATURE. She is the guardian whom God assigned to study, to watch, to learn, to know what the prisoner was, and is, and to cherish the memory of it forever. She could not forget it if she would. There is not a blemish on the person of any one of us, born with us or coming from disease or accident, nor have we committed a right or a wrong action, that has not been treasured up in the memory of a mother. Juror! roll up the sleeve from your manly arm and you will find a scar there of which you know nothing. Your mother will give you the detail of every day's progress of the preventive disease. Sally Freeman has the mingled blood of the African and Indian races. She is nevertheless a woman, and a mother, and nature bears witness in every climate and in every country to the singleness and uniformity of those characters. I have known and proved them in the hovel of the slave and in the wigwam of the Chippewa. But Sally Freeman has been intemperate. The white man enslaved her ancestors of the one race, exiled and destroyed those of the other, and debased them all by corrupting their natural and healthful appetites. She comes honestly by her only vice. ~~but when she comes here to testify for a lie that's damn~~

